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No. 6]

NEW DELHI, SATURDAY, FEBRUARY 8, 2003/MAGHA 19, 1924

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notification Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त एवं कम्पनी कार्य मंत्रालय

(राजस्व विभाग)

केन्द्रीय प्रत्यक्ष कर बोर्ड

नई दिल्ली, 17 जनवरी, 2003

का.आ. 453.—सर्वसाधारण की जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार आयकर नियमावली, 1962 के नियम 2ड के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23-छ) के प्रयोजनार्थ कर निर्धारण वर्ष 2001-2002, 2002-2003 तथा 2003-2004 के लिए नीचे पैरा 3 में उल्लिखित उद्यमों/औद्योगिक उपक्रम को अनुमोदित करती है।

2. यह अनुमोदन इस शर्त के अधीन है कि :—

(i) उद्यम/औद्योगिक उपक्रम आयकर नियमावली, 1962 के नियम 2ड के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23-छ) के उपबंधों के अनुरूप होगा और उनका अनुपालन करेगा;

(ii) केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि उद्यम/औद्योगिक उपक्रम :

(क) अवसंरचनात्मक सुविधा को जारी रखना बंद कर देता है; और

(ख) खाता बहियों का रख-रखाव नहीं करता है तथा आयकर नियमावली, 1962 के नियम 2ड के उप-

नियम (7) द्वारा यथा अपेक्षित किसी लेखाकार द्वारा ऐसे खातों की लेखा परीक्षा नहीं करता है, अथवा

(ग) आयकर नियमावली, 1962 के नियम 2ड के उप-नियम (7) द्वारा यथा अपेक्षित लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करता है।

3. अनुमोदित उद्यम/औद्योगिक उपक्रम है :—मैसर्स पीपावाव रेलवे कारपोरेशन प्रा. लि., बी-1, महाराजा प्लेस, यूनिवर्सिटी रोड, नावियंगपुरा, अहमदाबाद-380009 को गुजरात राज्य में सुरेन्द्रनगर से पीपावाव ब्रोड गेज रेल लिंक की उनकी परियोजना के लिए (फा. सं. 205/12/2002-आयकर नि.-II)

[अधिसूचना सं. 15/2003/फा.सं. 205/12/2002-आयकर नि.-II]

संगीता गुप्ता, निदेशक (आयकर नि-II)

MINISTRY OF FINANCE & COMPANY AFFAIRS

(Department of Revenue)

Central Board of Direct Taxes

New Delhi, the 17th January, 2003

S.O. 453.—It is notified for general information that enterprise/industrial undertaking, listed at para (3) below has been approved by the Central Government for the

purpose of Section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962, for the assessment years 2001-2002, 2002-2003 and 2003-2004.

2. The approval is subject to the condition that :—

- (i) the enterprise/industrial undertaking will conform to and comply with the provisions of Section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962;
- (ii) the Central Government shall withdraw this approval if the enterprise/industrial undertaking :—

- (a) ceases to carry on infrastructure facility; or
- (b) fails to maintain books of account and get such accounts audited by an accountant as required by sub-rule (7) of rule 2E of the Income-tax Rules, 1962; or
- (c) fails to furnish the audit report as required by sub-rule (7) of rule 2E of the Income-tax Rules, 1962.

3. The enterprise/industrial undertaking approved is :—

M/s Pipavav Railway Corporation Private Limited, B-1, Maharaja Palace, University Road, Navrangpura, Ahmedabad-380009 for their project of Broad Gauge Rail Link from Surendranagar to Pipavav in the State of Gujarat. (F. No. 205/12/2002-ITA-II)

[Notification No. 15/2003/F. No. 205/12/2002-ITA-II]
SANGEETA GUPTA, Director (ITA.II)

नई दिल्ली, 26 दिसम्बर, 2002

(आयकर)

का.आ. 454.— सामान्य जानकारी के लिए अधिसूचित किया जाता है कि केन्द्र सरकार उद्योलिखित संगठन को उनके नाम के सामने उल्लिखित अवधि, के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ "संस्था" श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित करती है :—

- (i) अधिसूचित संस्था अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगा;
- (ii) अधिसूचित संस्था प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक रिटर्न प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग "टेक्नोलाजी भवन" न्यू महरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगा;
- (iii) अधिसूचित संस्था केन्द्र सरकार की तरफ से नामोदित निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक

प्रति तथा अपने अनुसंधान कार्यकलापों जिसके लिए आयकर अधिनियम 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संस्था पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट), 10 मिडिलटन रॉ, पांचवां तल, कलकत्ता-700071 (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगा।

क्रम सं.	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
1.	मैसर्स कैसर इन्स्टीट्यूट्स (डब्ल्यूआईए) ईस्ट कैनाल बैंक रोड, गांधी नगर, अड्यार, चैन्नई-600020	1-4-2002 से 31-3-2005

टिप्पणी :— अधिसूचित संस्था को सलाह दी जाती है कि वे अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 400/2002/फा.सं. 203/63/2002-आयकर नि.11]

प्रोमिला भारद्वाज, निदेशक (आयकर नि.-1)

New Delhi, the 26th December, 2002

(Income-Tax)

S.O. 454.—It is hereby notified for general information that the organisations mentioned below have been approved by the Central Government for the period mentioned against their names, for the purpose of clause (ii) of Sub-section (1) of Section 35 of the Income tax Act, 1961, read with Rule 6 of the Income-tax Rules, 1962 under the category "Institution" subject to the following conditions :—

- (i) The notified institution shall maintain separate books of accounts for its research activities;
- (ii) The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific and Industrial Research, "Technology Bhawan", New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;
- (iii) The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income Tax (Exemptions), 10 Middleton Row, 5th Floor, Kolkatta-700071 (b) the Secretary,

Department of Scientific & Industrial Research, and (c) the Commissioner of Income Tax/Director of Income Tax (Exemptions), having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income & Expenditure Account in respect of its research activities for which exemption was granted under sub-section (1) of Section 35 of Income Tax Act, 1961 in addition to the return of Income Tax to the designated assessing officer.

S. No.	Name of the Organisation approved	Period for which Notification is effective
1.	M/s. Cancer Institute (WIA) East Canal Bank Road, Gandhi Nagar, Adyar, Chennai-600020.	1-4-2002 to 31-3-2005

Note: The notified Institution is advised to apply in triplicates and well in advance for renewal of the approval, to the Central Government through the Commissioner of Income Tax/Director of Income Tax (Exemptions) having jurisdiction. Three copies of application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 400/2002/F.No. 203/63/2002/ITA-II]

PROMILA BHARDWAJ, Director (ITA.I)

नई दिल्ली, 22 जनवरी, 2003

का.आ. 455.—केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में एतद्वारा राजस्व विभाग के अधीन केन्द्रीय उत्पाद एवं सीमा शुल्क बोर्ड के निम्नलिखित क्षेत्रीय कार्यालय को, जिसके कर्मचारी-वृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :—

सीमा शुल्क आयुक्त (सामान्य)

नवीन सीमा शुल्क भवन,

बेलाई इस्टेट, मुंबई-400038

[फा.सं. 11011/3/2002-हिन्दी-2]

सौरभ चन्द्र, संयुक्त सचिव

New Delhi, the 22nd January, 2003

S.O. 455.—In pursuance of sub-rule (4) of rule 10 of the Official Language (Use for Official Purposes of the Union) Rules, 1976 the Central Government hereby notifies the following office under the Board of Central Excise &

Customs, Department of Revenue the staff where of have acquired the working knowledge of Hindi :—

Office of the Commissioner of Customs

New Custom House,

Ballard Estate,

Mumbai-400038

[F. No. 11011/3/2002-Hindi-2]

SAURABH CHANDRA, Jr. Secy.

(व्यय विभाग)

नई दिल्ली, 24 जनवरी, 2003

का.आ. 456.—केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए नीचे की सारणी के स्तंभ (1) में उल्लिखित अधिकारी को, जो सरकार का एक राजपत्रित अधिकारी है, उक्त अधिनियम के प्रयोजन के लिए संपदा अधिकारी नियुक्त करती है, जो उक्त सारणी के स्तंभ (2) में तत्स्थानी प्रविष्टि में विनिर्दिष्ट सरकारी स्थानों की बाबत अपनी अधिकारिता की स्थानीय सीमाओं के भीतर उक्त अधिनियम द्वारा या उसके अधीन संपदा अधिकारी को प्रदत्त शक्तियों का प्रयोग और उस पर अधिरोपित कर्तव्यों का पालन करेगा।

सारणी

अधिकारी का पदनाम	सरकारी स्थानों के प्रवर्ग और उनकी स्थानीय सीमाएं
(1)	(2)
उप महालेखाकार (लेखा संवर्ग), प्रधान महालेखाकार (लेखा और हकदारी) का कार्यालय, उड़ीसा, पुरी शाखा, पुरी।	प्रधान महालेखाकार (लेखा और हकदारी) उड़ीसा, पुरी शाखा, पुरी के प्रशासनिक नियंत्रणाधीन सरकारी स्थान।

[फा.सं.ए-11013/2/2002-ई.जी.]

महेन्द्र कुमार, उप-सचिव

(Department of Expenditure)

New Delhi, the 24th January, 2003

S.O. 456.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officer mentioned in Column (1) of the Table below, being a Gazetted Officer of the Government to be the Estate Officer for the purposes of the said Act, who shall exercise the powers conferred and perform the duties imposed on Estate Officer by section 3 of the said Act, within the local limits of his jurisdiction in respect of the public premises specified in the corresponding entry in Column (2) of the said Table :—

TABLE

Designation of the Officer	Categories of the public premises and local limits of jurisdiction
1	2
Deputy Accountant General (Works Account), Office of the Principal Accountant General (Account and Entitlement) Orissa, Puri Branch Puri.	Public premises under the administrative control of the Principal Accountant General (Account and Entitlement) Orissa, Puri Branch, Puri.

[F.No. A-11013/2/2002-EG]

MAHENDRA KUMAR, Dy. Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 27 जनवरी, 2003

का.आ. 457.—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1980 के खंड 9 के उप-खंड (2) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1980 की धारा 9 की उप-धारा (3) के खंड (ड) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा श्री टी०के० दत्ता, विशेष सहायक, ओरियंटल बैंक ऑफ कामर्स, क्षेत्रीय कार्यालय, चंडीगढ़ को दिनांक 27-1-2003 से 18-7-2005 तक अर्थात् जिस तारीख को वह बैंक की सेवा से सेवानिवृत्त होंगे या ओरियंटल बैंक ऑफ कामर्स के कर्मकार के रूप में उनकी सेवाएं समाप्त होने तक, इनमें से जो भी पहले हो, ओरियंटल बैंक ऑफ कामर्स के निदेशक बोर्ड में निदेशक के रूप में नियुक्त करती है।

[फा०सं० 15/2/2002-आई०आर०]

ए० थामस, अवर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 27th January, 2003

S.O. 457.—In exercise of the powers conferred by clause (e) of Sub-section 3 of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 read with Sub-section (2) of Clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980, the Central Government hereby appoints Shri T.K. Dutta, Special Assistant, Oriental Bank of Commerce, Regional Office, Chandigarh as a Director on the Board of Directors of Oriental Bank of Commerce with effect from 27-1-2003 to 18-7-2005 i.e. the date on which he retires from the services of the bank or until he ceases to be a workman employee of Oriental Bank of Commerce whichever is earlier.

[F.No. 15/2/2002-IR]

A. THOMAS, Under Secy.

(वाणिज्य और उद्योग मंत्रालय)

(वाणिज्य विभाग)

नई दिल्ली, 27 जनवरी, 2003

का.आ. 458.—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, और भारत के राजपत्र, भाग II, खंड 3, उपखंड (ii) में का०आ० 195, तारीख 17 जनवरी, 1966 द्वारा प्रकाशित अधिसूचना को उन बातों के सिवाय, जिन्हें ऐसे अधिक्रमण से पहले किया गया है या करने से लोप किया गया है, अधिक्रान्त करते हुए, इससे उपाबद्ध अनुसूची के स्तंभ (2) में वर्णित निर्यात निरीक्षण अभिकरणों को, उक्त अनुसूची के स्तंभ (3) में की तत्स्थानी प्रविष्टियों में वर्णित राज्यों या संघ राज्यक्षेत्रों से समुद्र, भूमि या वायु मार्ग द्वारा निर्यात के प्रयोजन के लिए ऐसी वस्तुओं की क्वालिटी नियंत्रण और निरीक्षण के लिए ऐसे क्वालिटी निरीक्षण और पोत वहन पूर्व निरीक्षण के अधीन रहते हुए, जो उक्त अधिनियम के अधीन समय-समय पर अधिसूचित किया जाए, अभिकरणों के रूप में स्थापित करती है।

2. ये अभिकरण उक्त अधिनियम की धारा 3 के अधीन स्थापित निर्यात निरीक्षण परिषद् के प्रशासनिक और तकनीकी नियंत्रण के अधीन होंगे।

अनुसूची

क्र. सं.	अभिकरण का नाम	राज्य/संघ राज्यक्षेत्र
1	2	3
1.	निर्यात निरीक्षण अभिकरण—चेन्नई	आन्ध्र प्रदेश, पांडिचेरी और तमिलनाडु।
2.	निर्यात निरीक्षण अभिकरण—दिल्ली	चंडीगढ़, दिल्ली, हरियाणा, हिमाचल प्रदेश, जम्मू-कश्मीर, पंजाब, राजस्थान, उत्तर प्रदेश, मध्य प्रदेश, उत्तरांचल और छत्तीसगढ़।
3.	निर्यात निरीक्षण अभिकरण—कोलकाता	असम, अरुणाचल प्रदेश, अंदमान और निकोबार द्वीप, बिहार, झारखंड, मणिपुर, मेघालय, मिजोरम, नागालैंड, उड़ीसा, सिक्किम, त्रिपुरा और पश्चिमी बंगाल।
4.	निर्यात निरीक्षण अभिकरण—कोच्चि	कर्नाटक, केरल और लक्षद्वीप।
5.	निर्यात निरीक्षण अभिकरण—मुम्बई	गुजरात, महाराष्ट्र, दादरा और नागर हवेली, गोवा, दमण और दीव।

[फा०सं० 6/6/2002-ईआई एंड ईपी]

राज सिंह, उप सचिव

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 27th January, 2003

S.O. 458.—In exercise of the powers conferred by Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) and in supersession of the notification of the Government of India in the Ministry of Commerce published in the Gazette of India Part II, Section 3, sub-section (ii) vide S.O. 195 dated 17th January, 1966 except as respects things done or omitted to be done before such supersession, the Central Government hereby establishes the Export Inspection Agencies mentioned in column (2) of the Schedule annexed hereto as the agencies for quality control and inspection of such commodities subjected to quality control and pre-shipment inspection as may be notified from time to time under the said Act for purposes of export by sea, land or air from the States or Union Territories mentioned in the corresponding entries in column (3) of the said Schedule.

2. These agencies shall be under the administrative and technical control of the Export Inspection Council established under Section 3 of the said Act.

SCHEDULE

Sl. No.	Name of the Agency	States/Union Territories
1	2	3
1.	Export Inspection Agency—Chennai	Andhra Pradesh, Pondicherry and Tamil Nadu.
2.	Export Inspection Agency—Delhi	Chandigarh, Delhi, Haryana, Himachal Pradesh, Jammu and Kashmir, Punjab, Rajasthan, Uttar Pradesh, Madhya Pradesh, Uttaranchal and Chattisgarh.
3.	Export Inspection Agency—Kolkata	Assam, Arunachal Pradesh, Andaman and Nicobar Islands, Bihar, Jharkhand, Manipur, Meghalaya, Mizoram, Nagaland, Orissa, Sikkim, Tripura and West Bengal.
4.	Export Inspection Agency—Kochi	Karnataka, Kerala and Lakshadweep.
5.	Export Inspection Agency—Mumbai	Gujarat, Maharashtra, Dadra and Nagar Haveli, Goa, Daman and Diu.

[F. No. 6/6/2002-E I & EP]

RAJ SINGH, Dy. Secy.

रसायन एवं उर्वरक मंत्रालय

नई दिल्ली, 29 जनवरी, 2003

का.आ. 459.—लोक परिसर (अनधिकृत दखलदारों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा नीचे दी गई अनुसूची के कालम (1) में वर्णित अधिकारी को सरकार के राजपत्रित अधिकारी स्तर के समकक्ष अधिकारी होने के नाते उक्त अधिनियम के प्रयोजनार्थ सम्पदा अधिकारी के रूप में नियुक्त करती है, जो प्रदत्त शक्तियों का प्रयोग करेगा और उक्त अधिनियम के द्वारा या तहत सम्पदा अधिकारियों के लिए लागू कर्तव्यों का, उक्त अनुसूची के कालम (2) में तदनुसूची प्रविष्टि में निर्दिष्ट लोक परिसर के संबंध में अपने क्षेत्राधिकार की स्थानीय सीमाओं के भीतर निष्पादन करेगा।

अनुसूची

अधिकारी का पदनाम	लोक परिसरों की श्रेणी तथा क्षेत्राधिकार की स्थानीय सीमाएं
(1)	(2)
कार्मिक एवं प्रशासनिक विभाग, नेशनल फर्टिलाइजर्स लिमिटेड, नांगल एकक, नया नांगल, पानीपत एकक, पानीपत, हरियाणा, विजयपुर एकक, जिला गुणा, मध्य प्रदेश और भटिंडा एकक, भटिंडा, पंजाब के प्रमुख।	नेशनल फर्टिलाइजर्स लिमिटेड, द्वारा इसके चार एककों नांगल एकक, नया नांगल, पंजाब, पानीपत एकक, पानीपत, हरियाणा, विजयपुर एकक, जिला गुणा, मध्य प्रदेश और भटिंडा एकक, भटिंडा, पंजाब और उनके टाउनशिप के लिए या इसके द्वारा या इसकी ओर से पट्टे पर लिए गए परिसर।

[फा०सं० 100/6/2002-मा.सं.-1]

पी. के. वाधवा, उप सचिव

MINISTRY OF CHEMICALS AND FERTILIZERS

New Delhi, the 29th January, 2003

S.O. 459.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officer mentioned in column (1) of the Schedule below, being an officer equivalent to the rank of a Gazetted Officer of the Government, to be an estate officer for the purposes of the said Act who shall exercise the powers conferred and perform his duties imposed on the estate officers by or under the said Act, within the local limits of his jurisdiction in respect of the public premises specified in the corresponding entry in column (2) of the said Schedule.

SCHEDULE

Designation of the Officer	Categories of Public Premises and Local Limits of jurisdiction
(1)	(2)
Head of Personnel and Administrative Department, National Fertilizers Limited, Nangal Unit, Panipat, Haryana; Vijaipur Unit, District Guna, Madhya Pradesh and Bathinda Unit, Bathinda, Punjab.	Premises belonging to or taken on lease by or on behalf of National Fertilizers Limited for its four Units Nangal Unit, Naya Nangal, Punjab; Panipat Unit, Panipat, Haryana; Vijaipur Unit, District Guna, Madhya Pradesh and Bathinda Unit, Bathinda, Punjab and their townships.

[F. No. 100/6/2002-HR-I]
P.K. WADHWA, Dy. Secy.

स्वास्थ्य एवं परिवार कल्याण मंत्रालय

(स्वास्थ्य विभाग)

नई दिल्ली, 23 जनवरी, 2003

का.आ. 460.—दन्त चिकित्सक अधिनियम, 1948 (1948 का 16) की धारा 10 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय दन्त चिकित्सा परिषद् से परामर्श करने के बाद एतद्द्वारा उक्त अधिनियम की अनुसूची के भाग-1 में निम्नलिखित संशोधन करती है; अर्थात् :—

उक्त अनुसूची के भाग-1 में क्रम संख्या 47 और उससे संबंधित प्रविष्टियों के सामने निम्नलिखित प्रविष्टियां जोड़ी जाएंगी, अर्थात् :

(1)	(2)	(3)
47. राजीव गांधी यूनिवर्सिटी ऑफ हेल्थ साइंसिज, बंगलौर	दंत शल्य चिकित्सा स्नातक के.एल.ई. सोसायटी इंस्टीच्यूट ऑफ डेंटल साइंसिज, बंगलौर के बी.डी.एस. छात्रों के संबंध में उक्त दन्त चिकित्सा अर्हता तभी एक मान्यताप्राप्त अर्हता होगी जब यह 31 दिसम्बर, 2001 को अथवा उसके बाद प्रदान की गई हो।	राजीव गांधी यूनिवर्सिटी ऑफ हेल्थ साइंसिज, बंगलौर

[सं. वी-12017/30/96-पी एम एस (वाल्सू IV)]

एस. के. राव, निदेशक (चि.शि.)

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health)

New Delhi, the 23rd January, 2003

S.O. 460.—In exercise of the power conferred by sub-section (2) of Section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with

Dental Council of India, hereby makes the following amendments in Part-I of the Schedule to the said Act, namely :—

In Part-I of the Schedule against Serial Number 47, and the entries relating thereto, the following entries shall be added, namely :

(1)	(2)	(3)
47. Rajiv Gandhi University of Health Sciences, Bangalore	<u>Bachelor of Dental Surgery</u> The dental qualifications shall be recognized qualifications in respect of BDS students of K.L.E. Society's Institute of Dental Sciences, Bangalore when granted on or after 31st December, 2001.	BDS Rajiv Gandhi University of Health Sciences, Bangalore.

[No. V. 12017/30/96-PMS (Vol. IV)]

S.K. RAO, Director (ME)

नई दिल्ली, 23 जनवरी, 2003

का.आ. 461.—दन्त चिकित्सक अधिनियम, 1948 (1948 का 16) की धारा 10 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय दन्त चिकित्सा परिषद् से परामर्श करने के बाद एतद्द्वारा उक्त अधिनियम की अनुसूची के भाग-1 में निम्नलिखित संशोधन करती है; अर्थात् :—

उक्त अनुसूची के भाग-1 में क्रम संख्या 17 और उससे संबंधित प्रविष्टियों के सामने निम्नलिखित प्रविष्टियां जोड़ी जाएंगी, अर्थात् :

(1)	(2)	(3)
17. बंगलौर विश्व विद्यालय, बंगलौर	दंत शल्य चिकित्सा स्नातक के.एल.ई. सोसायटी इंस्टीच्यूट ऑफ डेंटल साइंसिज, बंगलौर के बी.डी.सी. छात्रों के संबंध में उक्त दन्त चिकित्सा अर्हता तभी एक मान्यताप्राप्त अर्हता होगी यह अप्रैल, 1996 को या उसके बाद प्रदान की गई हो।	बंगलौर विश्व-विद्यालय बंगलौर

[संख्या वी-12017/30/96-पी एम एस (वाल्सू IV)]

एस. के. राव, निदेशक (चि.शि.)

New Delhi the 23rd January, 2003

S.O. 461.—In exercise of the power conferred by sub-section (2) of Section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with Dental Council of India, hereby makes the following amendments in Part-I of the Schedule to the said Act, namely :—

In Part I of the Schedule against Serial Number 17, and the entries relating thereto, the following entries shall be added, namely :—

(1)	(2)	(3)
17. Bangalore University	<u>Bachelor of Dental Surgery</u> The dental qualification shall be recognized qualifications in respect of BDS students of K.I. E. Society's Institute of Dental Sciences, Bangalore when granted on or after April, 1996.	BDS Bangalore University, Bangalore

[No. V. 12017/30/96-PMS (Vol. IV)]

S. K. RAO, Director (ME)

नई दिल्ली, 27 जनवरी, 2003

का.आ. 462.—केन्द्रीय सरकार, भारतीय दन्त चिकित्सक परिषद् से परामर्श करने के पश्चात् दन्त चिकित्सक अधिनियम, 1948 (1948 का 16) की धारा 10 की उप-धारा (2) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए उक्त अधिनियम की अनुसूची के भाग-I में निम्नलिखित संशोधन करती है, नामतः :—

अनुसूची के भाग-I में क्रम संख्या 47 तथा उससे संबंधित प्रविष्टियों के सामने निम्नलिखित प्रविष्टियां जोड़ी जाएंगी, नामतः :—

47. राजीव गांधी यूनिवर्सिटी ऑफ हेल्थ साइंसिज, बेंगलौर	<u>मास्टर ऑफ डेंटल सर्जरी</u> बेंगलौर इंस्टीच्यूट ऑफ डेंटल साइंसिज, बेंगलौर के एम.डी.एस. छात्रों के संबंध में निम्नलिखित दंत चिकित्सा अर्हताएं तभी मान्यताप्राप्त अर्हताएं होगी यदि वे 17-10-2002 को अथवा उसके बाद प्रदान की गई हो। (i) एम डी एस (आर्थोडान्टिक्स) (ii) एम डी एस (ओरल सर्जरी) (iii) एम डी एस (पीरियोडान्टिक्स) (iv) एम डी एस (प्रास्थोडान्टिक्स)	(क) एम डी एस (आर्थोडान्टिक्स) राजीव गांधी यूनिवर्सिटी ऑफ हेल्थ साइंसिज, बेंगलौर (ख) एम डी एस (ओरल सर्जरी) राजीव गांधी यूनिवर्सिटी ऑफ हेल्थ साइंसिज, बेंगलौर (ग) एम डी एस (पीरियोडान्टिक्स) राजीव गांधी यूनिवर्सिटी ऑफ हेल्थ साइंसिज, बेंगलौर (घ) एम डी एस (प्रास्थोडान्टिक्स) राजीव गांधी
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यूनिवर्सिटी ऑफ
हेल्थ साइंसिज,
बेंगलौर

[संख्या बी-12018/24/2002-पी एम एस]

एस. के राव, निदेशक (एम.ई.)

New Delhi, the 27th January, 2003

S.O. 462—In exercise of the power conferred by sub-section (2) of Section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with Dental Council of India, hereby makes the following amendments in Part-I of the Schedule to the said Act, namely :—

In Part I of the Schedule against Serial Number 47, and the entries relating thereto, the following entries shall be added, namely :—

47. Rajiv Gandhi University of Health Sciences, Bangalore	<u>Master of Dental Surgery</u> The following dental qualifications shall be recognized qualifications in respect of MDS students of Bangalore Institute of Dental Sciences, Bangalore when granted on or after 17-10-2002: (i) MDS (Orthodontics) (ii) MDS (Oral Surgery) (iii) MDS (Periodontics) (iv) MDS (Prosthodontics)	(a) MDS Orthodontics) Rajiv Gandhi University of Health Sciences, Bangalore. (b) MDS (Oral Surgery) Rajiv Gandhi University of Health Sciences Bangalore (c) MDS (Periodontics) Rajiv Gandhi University of Health Sciences, Bangalore (d) MDS (Prosthodontics) Rajiv Gandhi University of Health Sciences, Bangalore
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[No. V. 12018/24/2002-PMS]

S.K. RAO, Director (ME)

विज्ञान और प्रौद्योगिकी मंत्रालय

(विज्ञान और प्रौद्योगिकी विभाग)

नई दिल्ली, 27 जनवरी, 2003

का.आ. 463.—श्री चित्रा तिरुनल आयुर्विज्ञान एवं प्रौद्योगिकी संस्थान, त्रिवेन्द्रम अधिनियम, 1980 (1980 की संख्या 52) के खण्ड-5 के उपबंध-3 उपखण्ड (2) खण्ड (6) के साथ पक्ष प्रावधानों के

अनुसार डॉ. दसारी नारायण राव, राज्य सभा सदस्य को 11 दिसम्बर, 2002 से संस्थान के निकाय के एक सदस्य के रूप में चुना गया है।

स्थायी पता	दिल्ली का पता
मकान नं. 8-2-574ए, रोड नं. 7	एस एम-2 आंध्र प्रदेश भवन
बंजारा हिल्स	1, अशोका रोड,
हैदराबाद (आंध्र प्रदेश)	नई दिल्ली-110001

2. चुने गए सदस्य का कार्यकाल उनके चयन की तिथि से पांच वर्षों का होगा और सदन के सदस्य के रूप में इनका कार्यकाल समाप्त होने पर उक्त कार्यालय के सदस्य के रूप में भी इनकी सदस्यता समाप्त हो जाएगी।

3. उक्त सदस्य की सदस्यता श्री चित्रा तिरुनल आयुर्विज्ञान एवं प्रौद्योगिकी संस्थान, त्रिवेन्द्रम अधिनियम, 1980 के अन्य प्रावधानों के अध्वधीन होगी।

[सं० एआई/एलएस/004/2000]

शंभू सिंह, निदेशक

MINISTRY OF SCIENCE AND TECHNOLOGY

(Department of Science and Technology)

New Delhi, the 27th January, 2003

S.O. 463.—In terms of the provisions of Clause-3 of Section-5 read with Sub-section (2) of Section (6) of Sree Chitra Tirunal Institute of Medical Sciences & Technology, Trivandrum Act, 1980 (No. 52 of 1980), Dr. Dasari Narayana Rao, Rajya Sabha Member has been elected to serve as one of the Members on the Body of the Institute w.e.f. 11th December, 2002.

Permanent Address	Delhi Address
H.No. 8-2-574/A,	SM-2A, Andhra Pradesh
Road No. 7, Banjara Hills,	Bhawan, Ashoka Road,
Hyderabad (AP)	New Delhi-110001

2. The term of Office of the elected Member shall be five years from the date of his election and the same shall come to an end as soon as he ceases to be a Member of the House.

3. The membership of the above Member shall be subject to other provisions of Sree Chitra Tirunal Institute of Medical Sciences & Technology, Trivandrum Act, 1980.

[No. AI/LS/004/2000]

SHAMBHU SINGH, Director.

विद्युत मंत्रालय

नई दिल्ली, 24 जनवरी, 2003

का.आ. 464.— भारतीय विद्युत अधिनियम, 1910 (1910 का 9) की धारा 36 की उप-धारा (1) में प्रदत्त शक्तियों और भारत सरकार विद्युत मंत्रालय अधिसूचना सं. 42/4/2001 दिनांक 11 नवम्बर, 2002

के अधिक्रम में केन्द्र सरकार खान सुरक्षा महानिदेशालय के निम्नांकित अधिकारियों को उक्त अधिनियम के कथित प्रयोजनों हेतु वैद्युत निरीक्षक के पद पर नियुक्त करती है, से संबंधित ये वैद्युत निरीक्षक जम्मू व कश्मीर राज्य को छोड़कर अपने क्षेत्राधिकार की सीमाओं के भीतर अपने दायित्वों का निर्वहन करेंगे :-

- (1) श्री ए. के. बंधोपाध्याय, खान सुरक्षा उप महानिदेशक (वैद्युत)
- (2) श्री डी. के. रॉय, खान सुरक्षा निदेशक (वैद्युत)
- (3) श्री राजेन्द्र प्रसाद, खान सुरक्षा निदेशक (वैद्युत)
- (4) श्री आर. रामचन्द्रन, खान सुरक्षा निदेशक (वैद्युत)
- (5) श्री बी. एन. मिश्रा, खान सुरक्षा उप निदेशक (वैद्युत)
- (6) श्री एन. के. चौधरी, खान सुरक्षा उप निदेशक (वैद्युत)
- (7) श्री धर्मेन्द्र कुमार, खान सुरक्षा उप निदेशक (वैद्युत)
- (8) श्री बी. के. पाणिग्रही, खान सुरक्षा उप निदेशक (वैद्युत)
- (9) श्री एस. के. तालुकदार, खान सुरक्षा उप निदेशक (वैद्युत)
- (10) श्री बी. के. लामा, खान सुरक्षा उप निदेशक (वैद्युत)
- (11) श्री एम. के. दास, खान सुरक्षा उप निदेशक (वैद्युत)
- (12) श्री के. एम. घोष, खान सुरक्षा उप निदेशक (वैद्युत)
- (13) श्री एस. के. मुकेश, खान सुरक्षा उप निदेशक (वैद्युत)
- (14) श्री जी. पी. राव, खान सुरक्षा उप निदेशक (वैद्युत)
- (15) श्री यू. एन. पाण्डे, खान सुरक्षा उप निदेशक (वैद्युत)
- (16) श्री जी. एल. कान्ता राव, खान सुरक्षा उप निदेशक (वैद्युत)
- (17) श्री एस. के. ठाकुर, खान सुरक्षा उप निदेशक (वैद्युत)
- (18) श्री राधे श्याम, खान सुरक्षा उप निदेशक (वैद्युत)
- (19) श्री बी. एस. निम, खान सुरक्षा उप निदेशक (वैद्युत)
- (20) श्री के. एस. यादव, खान सुरक्षा उप निदेशक (वैद्युत)

[फा. सं० 42/4/2001-आर एंड आर]

अजय शंकर, संयुक्त सचिव

MINISTRY OF POWER

New Delhi, the 24th January, 2003

S.O. 464.—In exercise of the powers conferred by Sub-section (1) of Section 36 of the Indian Electricity Act, 1910 (9 of 1910) and in supersession of Government of India, Ministry of Power Notification No.42/4/2001 dated 11th November, 2002, the Central Government hereby appoints the following officers of the Directorate General of Mines Safety as Electrical Inspectors for the said purpose of the said Act, who shall exercise the powers and perform the functions of an Electrical Inspector in relation to a mine, within the local limits of their respective jurisdiction except the State of J&K :—

- (1) Shri A. K. Bandhopadhyay, Deputy Director-General of Mines Safety (Electrical)
- (2) Shri D.K.Roy, Director of Mines Safety (Electrical)
- (3) Shri Rajendra Prasad, Director of Mines Safety (Electrical)
- (4) Shri R. Ramchandran, Director of Mines Safety (Electrical)
- (5) Shri B. N. Mishra, Deputy Director of Mines Safety (Electrical)
- (6) Shri N.K. Chaudhuri, Deputy Director of Mines Safety (Electrical)
- (7) Shri Dharmendra Kumar, Deputy Director of Mines Safety (Electrical)
- (8) Shri B.K. Panigrahi, Deputy Director of Mines Safety (Electrical)
- (9) Shri S.K. Talukdar, Deputy Director of Mines Safety (Electrical)
- (10) Shri B. K. Lama, Deputy Director of Mines Safety (Electrical)
- (11) Shri M.K. Das, Deputy Director of Mines Safety (Electrical)
- (12) Shri K. M. Ghosh, Deputy Director of Mines Safety (Electrical)
- (13) Shri S.K. Mukesh, Deputy Director of Mines Safety (Electrical)
- (14) Shri G. P. Rao, Deputy Director of Mines Safety (Electrical)
- (15) Shri U. N. Pandey, Deputy Director of Mines Safety (Electrical)
- (16) Shri G. L. Kanta Rao, Deputy Director of Mines Safety (Electrical)
- (17) Shri S. K. Thakur, Deputy Director of Mines Safety (Electrical)
- (18) Shri Radhe Shyam, Deputy Director of Mines Safety (Electrical)
- (19) Shri B. S. Nim, Deputy Director of Mines Safety (Electrical)
- (20) Shri K. S. Yadav, Deputy Director of Mines Safety (Electrical)

[F.No. 42/4/2001-R&R]

AJAY SHANKAR, Jt. Secy.

संचार और सूचना प्रौद्योगिकी मंत्रालय

(दूरसंचार विभाग)

(राजभाषा अनुभाग)

नई दिल्ली, 30 जनवरी, 2003

का.आ. 465.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित 1987) के

नियम 10 (4) के अनुसरण में संचार और सूचना प्रौद्योगिकी मंत्रालय, दूरसंचार विभाग के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालयों को, जिसमें 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है।

मुख्य महाप्रबंधक दूरसंचार, भारत संचार निगम. लि.,
उत्तरांचल परिमण्डल, देहरादून

1. दूरसंचार जिला प्रबंधक, श्रीनगर, गढ़वाल
2. उप मण्डल अभियंता, गोपेश्वर
3. उप मण्डल अभियंता, कर्णप्रयाग
4. उप मण्डल अभियंता, रुद्रप्रयाग
5. उप मण्डल अभियंता, श्रीनगर (फोन्स)
6. उप मण्डल अभियंता, श्रीनगर (ग्रुप)
7. उप मण्डल अभियंता, पौड़ी
8. उप मण्डल अभियंता, लैन्सडाउन
9. उप मण्डल अभियंता, कोटद्वार

[सं. ई. 11016/1/2002-रा.भा.]

राम दत्त मासीवाल, निदेशक (राजभाषा)

MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY

(Department of Telecommunications)

(Office of the Language Section)

New Delhi, the 30th January, 2003

S.O.465.—In pursuance of rule 10(4) of the Official Language (Use for official purposes of the Union), Rules, 1976 (as amended 1987), the Central Government hereby notifies the following Offices under the administrative control of Ministry of Communications and Information Technology, Department of Telecommunications whereof more than 80 % staff have acquired working knowledge of Hindi.

Chief General Manager Telecom, BSNL, Uttaranchal Circle, Dehradun

1. Telecom. Distt. Manager, Srinagar, Garhwal
2. Sub Divisional Engineer, Gopeshwar
3. Sub Divisional Engineer, Karan Prayag
4. Sub Divisional Engineer, Rudra Prayag
5. Sub Divisional Engineer, Srinagar (Phones)
6. Sub Divisional Engineer, Srinagar (Group)
7. Sub Divisional Engineer, Pauri
8. Sub Divisional Engineer, Lansdawan
9. Sub Divisional Engineer, Kotdwar

[No. E. 11016/1/2002 (O.L.)]

R. D. MASIWAL, Director (O.L.)

कोयला और खान मंत्रालय
(कोयला विभाग)

नई दिल्ली, 31 जनवरी, 2003

का. आ. 466.— केन्द्रीय सरकार ने, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 4 की उपधारा (i) के अधीन, जारी भारत सरकार के कोयला मंत्रालय की अधिसूचना सं. का. आ. 597 तारीख 9 मार्च, 2001 जो भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii) तारीख 24 मार्च, 2001 में प्रकाशित की गई थी; द्वारा उससे संलग्न अनुसूची में साथ ही इससे उपाबंध अनुसूची में भी विनिर्दिष्ट परिक्षेत्र में 2775.35 एकड़ (लगभग) या 1113.16 हैक्टर (लगभग) माप वाली भूमि में कोयले का पूर्वेक्षण करने के लिए अपने आशय की सूचना दी गयी;

और उक्त भूमि की बाबत उक्त अधिनियम की धारा 7 की उपधारा (i) के अधीन कोई सूचना नहीं दी गई है।

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (i) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, तारीख 24 मार्च, 2003 में प्रारंभ होने वाली एक वर्ष की और अवधि को उस अवधि के रूप में विनिर्दिष्ट करती है, जिसके भीतर केन्द्रीय सरकार, उक्त भूमि या ऐसी भूमि में या उन पर के अधिकार का अर्जन करने के बारे में अपने आशय की सूचना दे सकेगी।

अनुसूची

आई.बी. ब्लाक - III

आई.बी. घाटी कोयला क्षेत्र

जिला झारसुगुडा

सभी अधिकार

(रेखांक सं. सी जी एम / आई.बी.बी./एस.यू.आर.बी./4/02 तारीख 8.5.2000)

क्र.सं.	ग्राम	पुलिस थाना और सं.	तहसील उप प्रभाग	जिला/राज्य	क्षेत्र एकड़ में	टिप्पणियां
1.	तालाबीरा	3	रेंगाली	संभलपुर/उड़ीसा	1450.00	भाग
2.	रिवंडा	2	रेंगाली	संभलपुर/उड़ीसा	1450.00	भाग
योग			2775.35 (लगभग) या 1123.16 हैक्टर (लगभग)			

सीमा वर्णन

- क-च** : रेखा, बिन्दु 'क' से प्रारम्भ होती है, जो कि ग्राम तालाबीरा भुरसूंडा और पतरापाली का त्रिसीमा बिन्दु है। यहाँ से यह ग्राम तालाबीरा से होती हुई पूर्व की ओर बढ़ती है और ग्राम की पूर्वी सीमा पर करने के पश्चात् ग्राम रिवंडा से होती हुई भेदन नदी के पश्चिमी किनारे पर बिन्दु 'च' तक जाती है।
- च-छ-ज** : रेखा ग्राम भिंडा के भीतर दक्षिण-पूर्व की ओर जाती है और इसकी पूर्वी सीमा को बिन्दु 'छ' पर स्पर्श करती है। यहाँ से रेखा ग्राम रिवंडा से होती हुई पश्चिम की ओर जाती है और इसकी पश्चिमी सीमा के बिन्दु 'ज' पर स्पर्श करती है।
- ज-क** : फिर रेखा रिवंडा और तालाबीरा की पश्चिमी सीमा के साथ-साथ उत्तर की ओर जाती है और आरम्भिक बिन्दु 'क' पर मिलती है।

[फा. सं.-43015/20/2000-पीआरआईडब्ल्यू]

संजय बहादुर, उप सचिव

Ministry of Coal and Mines
(Department of Coal)

New Delhi, the 31st January, 2003

S. O. 466.—[Whereas by the notification of the Government of India, in the Ministry of Coal, number S.O. 597, dated the 9th March, 2001 under sub-section (1) of the section 4 of the Coal Bearing Areas (Acquisition and Development) Act. 1957 (20 of 1957) and published in Part-II, Section 3, Sub-Section (ii), of the Gazette of India, dated the 24th March, 2001, the Central Government gave notice of its intention to prospect for coal in lands measuring 2775.35 acres (approximately) or 1123.16 hectares (approximately) in the locality specified in the Schedule appended thereto, as also in the Schedule hereto annexed;

And whereas in respect of the said lands, no notice under sub section (1) of section 7 of the said Act has been given;

Now, therefore, in exercise of the powers conferred by sub- section (1) of section 7 of the said Act, the Central Government hereby specifies a further period of one year commencing from the 24th March, 2003 as the period within which the Central Government may give notice of its intention to acquire the said lands or any rights in or over such lands.

Schedule**Ib Block-XIII, Ib Valley Coalfield
District Jharsuguda (Orissa)**

All rights

(Plan bearing NO.CGM/IBV/SURV/4/2000 Dated 08.05.2000)

SL. No.	Village	Police Station and Number	Tahsil/ Sub Div.	District/ State	Area in acres	Remarks
1	Talabira	3	Rengali	Sambalpur/ Orissa	1325.35	Part
2	Khinda	2	Rengali	Sambalpur / Orissa	1450.00	Part
Total					2775.35 (Approximately) or 1123.16 hectares (Approximately)	

Boundary description

A-F The line starts from point 'A' which is the trijunction point of villages Talabira, Bhursunda and Patrapali. From here it proceeds towards east through village Talabira and after crossing the eastern boundary of this village through Khinda village upto the wester bank of Bheden river at point 'F'.

F-G-H The line moves towards south-east within village Khinda and touches its eastern boundary at point 'G'. From here the line moves towards west through village Khinda and touches its western boundary at point 'H'.

H-A then the line moves towards north along the Western boundary of villages Khinda and Talabira and meets at the starting point 'A'.

[No.-43015/20/2000-PRIW]
SANJAY BAHADUR, Dy. Secy.

नई दिल्ली, 31 जनवरी, 2003

का. आ. 467.— केन्द्रीय सरकार ने कोयला क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 4 की उपधारा (1) के अधीन भारत के राजपत्र 2, खण्ड 3, उपखंड (ii), तारीख 10.03.2001 में प्रकाशित भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्या का० आ० सं० 484 तारीख 27.2.2001 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट परिक्षेत्र की भूमि में जिसका माप 475.40 एकड़ लगभग या 192.46 हेक्टेयर लगभग है, कोयले का पूर्वक्षण करने के अपने आशय की सूचना दी थी ।

और केन्द्रीय सरकार का यह समाधान हो गया है कि उक्त भूमि में कोयला अभिप्राप्य है ।

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए इससे संलग्न अनुसूची में वर्णित 475.40 एकड़ (लगभग) 192.46 हेक्टेयर (लगभग) माप की भूमि का अर्जन करने के अपने आशय की सूचना देती है।

टिप्पण 1: इस अधिसूचना के अन्तर्गत आने वाले क्षेत्र के रेखांक सं० राजस्व /1/2002 तारीख 11 मार्च, 2002 का निरीक्षण उपायुक्त हजारीबाग, झारखंड के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कलकत्ता या सेंट्रल कोलफील्ड्स लिमिटेड (राजस्व अनुभाग) दरभंगा हाउस, रांची, झारखंड के कार्यालय में किया जा सकता है।

टिप्पण 2: कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 8 के उपबंधों की ओर ध्यान आकृष्ट किया जाता है, जिसमें निम्नलिखित उपबंध हैं -

• 8. अर्जन की बाबत आपत्तियाँ -

(1) कोई व्यक्ति जो किसी भूमि में जिसकी बाबत धारा 7 के अधीन अधिसूचना निकाली गई है, हितबद्ध है, अधिसूचना के निकाले जाने से तीस दिन के भीतर सम्पूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उस पर के किन्हीं अधिकारों का अर्जन किए जाने के बारे में आपत्ति कर सकेगा।

स्पष्टीकरण :- इस धारा के अर्थान्तर्गत यह आपत्ति नहीं मानी जाएगी कि कोई व्यक्ति किसी भूमि में कोयला उत्पादन के लिए स्वयं खनन संक्रियाएँ करना चाहता है और ऐसी संक्रियाएँ केन्द्रीय सरकार या किसी अन्य व्यक्ति को नहीं करनी चाहिए।

(2) उपधारा 1 के अधीन प्रत्येक आपत्ति सक्षम प्राधिकारी को लिखित रूप में की जाएगी और प्राधिकारी आपत्तिकर्ता को स्वयं सुने जाने का या विधि व्यवसायी द्वारा सुनवाई का अवसर देगा और ऐसी सभी आपत्तियों को सुनने के पश्चात और ऐसी अतिरिक्त जांच यदि कोई हो, करने के पश्चात जो वह आवश्यक समझता है, वह या तो धारा 7 की उपधारा (1) के अधीन अधिसूचित भूमि का या ऐसी भूमि में या उस पर के अधिकारों के संबंध में एक रिपोर्ट या ऐसी भूमि के विभिन्न टुकड़ों या ऐसी भूमि में या उस पर के अधिकारों के संबंध में आपत्तियों पर अपनी सिफारिशों और उसके द्वारा की गई कार्यवाही के अभिलेख सहित विभिन्न रिपोर्ट केन्द्रीय सरकार को उसके विनिश्चय के लिए देगा।

(3) इस धारा के प्रयोजनों के लिए वह व्यक्ति किसी भूमि में हितबद्ध समझा जाएगा जो प्रतिकर में हित का दावा करने का हकदार होता, यदि भूमि या ऐसी भूमि में या उस पर के अधिकार इस अधिनियम के अधीन अर्जित कर लिए जाते।

टिप्पण 3: केन्द्रीय सरकार ने 11 जून, 1983 के भारत के राजपत्र में पृष्ठ 2442 से 2446 पर प्रकाशित अधिसूचना से का०आ० 2518 तारीख 27 मई 1983 द्वारा कोयला नियंत्रक 1, काउंसिल हाउस स्ट्रीट, कोलकाता को उक्त अधिनियम की धारा 3 के अधीन सक्षम प्राधिकारी नियुक्त किया है।

अ नु सू ची
केदला झारखण्ड ब्लाक विस्तार
(वेस्ट बोकारो कोलफील्ड्स)
जिला -हजारीबाग (झारखण्ड)

रेखांक सं 21/1/2002

दिनांक 11.3.2002

(अर्जित की जाने वाली भूमि)

सभी अधिकार

क्रम सं०	ग्राम	थाना नं०	थाना नं०	जिला	रकबा एकड में	रकबा हेक्टेयर में	टिप्पणियाँ
1	2	3	4	5	6	7	8
	1. केदला	माण्डु	160	हजारीबाग	475.40	192.46	(पी)
					लगभग	लगभग	
				कुल रकबा	475.40	192.46	
					लगभग	लगभग	

केदला ग्राम में अर्जित किये जाने वाले प्लोट संख्या :-

9,10,13,15,16,24 (पी),33,41,43पी,45,55(पी),73,75 (पी) ,345(पी),371(पी),392(पी),
 393,394,395,396,397,398,399,400,401,402(पी),403(पी),404,405,406(पी),408,
 419(पी),420(पी),421(पी),422(पी), 423(पी),424 , 425,426, 427, 428, 429, 430, 431,
 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446,
 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 4460, 461,462,
 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475,
 476,477(पी),478पी, 483(पी),485(पी), 486, 487पी,488पी,498पी,499 से 505,506(पी),
 510(पी), 511,512,513पी, 516पी,517, 518पी, 519पी,520, 521, 522, 523, 524(पी),
 525पी,526(पी),620(पी),741पी,756,773,781,783,785,789,792(पी),803(पी),810(पी),119
 9(पी) और 1205(पी)

सीमा वर्णन :-

क-ख :- रेखा बिन्दु "क" से आरम्भ होती है और ग्राम केदला में प्लॉट संख्या 24,43,50,49,67,75,76 और 75 (केदला बंजी रोड की सम्मिलित सीमा के साथ साथ) , से होकर जाती है और बिन्दु "ख" पर मिलती है ।

ख-ग-घ-ङ-च-छ :- रेखा ग्राम केदला में प्लॉट संख्या 75,76,353, 371,352, 371,349, 345, 342,371,620 और 1205 से होकर जाती है (जो का0आ0 स. 3687 तारीख 20.10.81 कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम 1957 की धारा 9(1) के अधीन अर्जित पोरज विस्तार ब्लॉक की सम्मिलित सीमा का भाग रूप हैं से गुजरती हैं और बिन्दु 'छ' पर मिलती हैं ।

छ-ज :- रेखा केदला और लईयो ग्रामों की सम्मिलित सीमा से होकर गुजरती है और बिन्दु 'ज' पर मिलती हैं।

ज-झ-ट-ठ-ड-ढ-ण-त :- रेखाएँ ग्राम केदला में प्लॉट संख्या 1199,1196, 1199, 620,594, 595, 601,600, 371,601,598, 590,589, 590,371,47, 578,485,488, 487,498, 506,510,513,516,518,519,526,524,525,423,422,419,371 और 369 (जो का0आ0सं0 1754 तारीख 15.6.96 कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम 1957 की धारा 9(1) के अधीन अर्जित केदला झारखण्ड विस्तार ब्लॉक की सम्मिलित सीमा के भाग रूप हैं) से गुजरती हैं और बिन्दु 'त' पर मिलती हैं ।

त-थ :- रेखा ग्राम केदला में प्लॉट संख्या 369,367,741,810,803,801,792 और 795(जो का0आ0सं0 1754 दिनांक 15-6-96 कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम 1957 की धारा 9(1) के अधीन अर्जित केदला झारखण्ड विस्तार ब्लॉक की सम्मिलित सीमा के भाग रूप हैं) से गुजरती है और बिन्दु 'थ' पर मिलती है ।

थ-क :- रेखा ग्राम केदला और इचाकडीह (जो का0 आ0 सं0 3687 तारीख 20.10.81 कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम 1957 की धारा 9(1) अधीन अर्जित पारेज ब्लॉक विस्तार की सम्मिलित सीमा का भाग रूप हैं) से गुजरती है और आरम्भिक बिन्दु 'क' पर मिलती हैं ।

[फा. सं.-43015/22/2000-पीआरआईडब्ल्यू]

संजय बहादुर, उप सचिव

New Delhi, the 31st January, 2003

S. O. 467.—Whereas by the notification of the Government of India in the Ministry of Coal Number. S.O. 484 dated the 27th February, 2001 published in the Gazette of India Part-II, section 3, sub-section(ii) dated the 10th March, .2001 issued under sub-section(1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) the Central Government gave notice of its intention to prospect for coal in 475.40 acres (approximately) or 192.46 hectares (approximately) of the lands in the locality specified in the Schedule appended to that notification;

And whereas the Central Government is satisfied that coal is obtainable from the said lands;

Now, therefore, in exercise of the powers conferred by sub-section(1) of section 7 of the said Act, the Central Government hereby gives notice of its intention to acquire the lands measuring 475.40 acres (approximately) or 192.46 hectares (approximately) described in the Schedule appended hereto;

Note 1 :- The plan No. Rev./1/2002 dated the 11.03.2002 of the area covered by this notification may be inspected in the office of the Deputy Commissioner, Hazaribagh, Jharkhand or in the office of the Coal Controller, 1, Council Street, Calcutta or in the office of the Central Coalfields Ltd., (Revenue Section), Darbhanga House, Ranchi, Jharkhand.

Note 2 :- Attention is hereby invited to the provisions of section 8 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), which provides as follows :-

“8 Objection to acquisition .-

- (1) Any person interested in any land in respect of which a notification under section 7 has been issued may, within thirty days of the issue of the notification, object to the acquisition of the whole or any part of the land or any rights in or over such lands.

Explanation :- It shall not be an objection within the meaning of this section for any person to say that he himself desires to undertake mining operations in the land for the production of coal and that such operations should not be undertaken by the Central Government or by any other person.

- (2) Every objection under sub-section (1) shall be made to the competent authority in writing, and the competent authority shall give the objector an opportunity of being heard either in person or all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under sub-section (1) of section 7 or of rights in or over such land, or make different report in respect of different parcels of such land or of rights in or over such land, the Central Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government.

- (3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land or any rights in or over such land were acquired under this Act”.

Note 3 :- The Coal Controller, 1 Council House Street, Kolkata, has been appointed by the Central Government, as the competent authority under section 3 of the said Act vide notification number S.O. 2518, dated the 27th May, 1983 published in the Gazette of India dated the 11th June, 1983 at pages 2442 to 2446.

SCHEDULE
KEDLA JHARKHAND BLOCK EXTENSION
 (West Bokaro Coalfields)
 District:- Hazaribagh, Jharkhand

Drg. No. Rev/1/2002 Dt. 11.3.2002

(All Rights)

(Showing land to be acquired)

Serial Number	Village	Thana	Thana Number	District	Area in Acres	Area in Hectares	Remarks
1.	2.	3.	4.	5.	6.	7.	8
1.	Kedla	Mandu	160	Hazaribagh	475.40	192.46	Part
				Total Area	475.40	192.46	(Approx.)

Plot numbers to be acquired in village Kedla :-

9, 10, 13, 15, 16, 24(P), 33, 41, 43(P), 45, 55(P), 73, 75(P), 345(P), 371(P), 392(P), 393, 394, 395, 396, 397, 398, 399, 400, 401, 402(P), 403(P), 404, 405, 406(P), 408, 419(P), 420(P), 421(P), 422(P), 423(P), 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477(P), 478(P), 483(P), 485(P), 486, 487(P), 488(P), 498(P), 499 to 505, 506(P), 510(P), 511, 512, 513(P), 516(P), 517, 518(P), 519(P), 520, 521, 522, 523, 524(P), 525(P), 526(P), 620(P), 741(P), 756, 773, 781, 783, 785, 789, 792(P), 803(P), 810(P), 1199(P) and 1205(P).

BOUNDARY DESCRIPTION :-

A-B Line starts from 'A' and passes through plot nos. 24, 43, 50, 49, 67, 75, 76 & 75 in village Kedla (along common boundary of Kedla Banji Road) and meets at point "B"

B-C-D-E-F-G Lines pass through plot nos. 75, 76, 353, 371, 352, 371, 349, 345, 342, 371, 620, and 1205 in village Kedla (which forms part common boundary of Parej Extn. Block U/S 9(1) of C.B.A (A&D) ACT 1957 vide, S.O. No. 3687 dt. 20.10.81) and meets at point 'G'.

G-H Line passes through common boundary of village Kedla & Loiyo and meets at point 'H'.

H-I-J-K-L-M-N-O Lines pass through plot nos. 1199, 1196, 1199, 620, 594, 595, 601, 600, 371, 601, 598, 590, 589, 590, 371, 477, 478, 485, 488, 487, 498, 506, 510, 513, 516, 518, 519, 526, 524, 525, 423, 422, 419, 371 & 369 in village Kedla (which forms part common boundary of Kedla Jharkhand Block U/S 9(1) of C.B.A (A&D) Act, 1957 vide S.O. No. 1754 dt. 15.6.96) and meets at point 'O'.

O-P Line passes through plot nos. 369, 367, 741, 810, 803, 801, 792 and 795 in village Kedla (which forms part common boundary of Kedla Jharkhand Block U/S 9(1) of C.B.A (A&D) Act 1957 vide S.O. No. 1754 dt. 15.6.96) and meets at point 'P'.

P-A Line passes through common boundary of village Kedla & Ichakdih (which forms part common boundary of Parej Extn. Block U/S 9*(1) of C.B.A.(A&D) Act, 1957 vide S.O. No. 3687 dt. 20.10.81) and meets at starting point 'A'.

[No.-43015/22/2000-PRIW]
SANJAY BAHADUR, Dy. Secy.

पैट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 31 जनवरी, 2003

का. आ. 468.—केन्द्रीय सरकार ने पैट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पैट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 1378 तारीख 12 अप्रैल 2002, द्वारा पश्चिमी बंगाल राज्य में हल्दिया से बिहार राज्य में बरौनी तक अपरिष्कृत तेल के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजन के लिए उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 17 मई 2002 को उपलब्ध करा दी गई थी;

और सक्षम प्राधिकारी द्वारा पाइपलाइन बिछाने के संबंध में कोई आक्षेप प्राप्त नहीं हुए हैं;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाए जाने के लिए अपेक्षित है उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग का अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि पाइप लाइन बिछाई जाने के लिए भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने के बजाय सभी विस्तारगमो से मुक्त इंडियन ऑयल कार्पोरेशन लिमिटेड में निहित होगा।

अनुसूची					
पुलिस थाना : तमलूक		जिला : मिदनापूर		राज्य : पश्चिमी बंगाल	
गाँव	अधिकारिता	प्लॉट	क्षेत्र		
	सूची संख्या	संख्या	हेक्टेयर	आरे	संटीआरे
1	2	3	4	5	6
घारिन्दा	279	821	0	02	12
		827	0	06	09
		828	0	03	23
		829	0	00	60
		830	0	00	28
		832	0	01	37
		970	0	02	14
		971	0	01	67
		973	0	01	62
		984	0	01	41
		1045	0	00	72
		1046	0	00	04
		1048	0	00	16
		1050	0	01	74
पुलिस थाना : दासपूर					
दारि अयेधा	214	1459	0	02	63
		1369/3837	0	00	23
		3838	0	01	50
		1356	0	00	51
		1386	0	01	34
		1385	0	00	98
गोमोखपोता	237	718	0	04	05
		720	0	08	90
		725	0	01	21
		726	0	01	53
		727	0	02	42
		728	0	02	83
		943	0	20	23

1	2	3	4	5	6
		944	0	00	04
		1049	0	09	71
		1521	0	04	25
		1537	0	06	87
		1538	0	00	04
		1544	0	01	20
		1545	0	09	30
		1546	0	03	48
		1549	0	09	10
		1550	0	06	47
		1551	0	00	20
		1567	0	00	12
		1569	0	01	21
		1570	0	02	22
		1571	0	02	02
		1572	0	00	60
		1573	0	01	78
		1574	0	02	02
		1576	0	01	41
		1577	0	01	69
		1537/2020	0	03	23
		725/1975	0	01	37
नारायणचक	238	931	0	03	64
		932	0	01	01
		936	0	00	22
		937	0	01	86
		938	0	10	52
		939	0	00	40
		942	0	01	61
		944	0	08	49
		976	0	00	20
		977	0	01	99
		920/1257	0	00	40

1	2	3	4	5	6
भगवतीपुर	211	2395	0	07	68
		2447	0	03	54
		2448	0	00	12
		2449	0	11	33
		2714	0	02	02
		2715	0	01	61
		2716	0	00	10
		2721	0	03	82
		2722	0	00	20
		2728	0	01	45
		2730	0	01	94
		2738	0	02	99
		2746	0	01	41
		2750	0	02	02
		2756	0	00	40
		2762	0	09	14
		2977	0	03	39
		2991	0	01	57
		2992	0	00	40
		2993	0	00	60
जट कनुरामगर	212	1401	0	00	80

पुलिस थाना : खानाकुल	जिला : हुगलि	राज्य : पश्चिमी बंगाल
कृष्णानगर	37	153
		155
		156
		158
		159
		160
		161
		184
		185
		217
		00
		00
		02
		20
		42
		28
		40
		89
		13
		40
		65
		04

1	2	3	4	5	6
		218/696	00	00	02
पुलिस थाना : दुबराजपुर		जिला : बिरभुम			राज्य : पश्चिमी बंगाल
रंगना	163	587	0	00	20
		781	0	03	23
		782	0	06	07
		786	0	02	43
		787	0	00	60
		788	0	13	35
		789	0	02	43
		833	0	03	64
		834	0	06	07
		836	0	05	26
		839	0	00	80
		841	0	00	80
		842	0	06	07
		843	0	00	40
		959	0	11	33
		960	0	00	04
		961	0	02	43
		963	0	00	20
		1202	0	02	43
		2398	0	03	23
		2400	0	06	48
		48/2674	0	04	05
पुगंलापुर	3	518	0	01	21
		960	0	08	50
		965	0	04	05
		966	0	07	28
खोलाकुरि	5	3	0	08	50
		30	0	02	43
		31	0	04	86

1	2	3	4	5	6
		1178	0	06	88
लक्ष्मी नारायनपुर	4	310	0	04	86

[फ़. सं. आर-25011/9/2002-ओ.आर-1]

रेनुका कुमार, अवर सचिव

Ministry of Petroleum and Natural Gas

New Delhi, the 31st January, 2003

S. O. 468.— Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 1378, dated the 12th April, 2002, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for the transportation of crude oil from Haldia in the State of West Bengal to Barauni in the State of Bihar;

And whereas, copies of the said gazette notification were made available to the public on the 17th May 2002;

And whereas, no objections have been received by the competent authority to the laying of the pipeline;

And whereas, the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the land for laying the pipeline shall, instead of vesting in the Central Government, vest, on the date of publication of the declaration, in the Indian Oil Corporation Limited, free from all encumbrances.

SCHEDULE

Police Station : Tamluk		District : Midnapur		State : West Bengal	
Village	Jurisdiction	Plot.	Area		
	List No.	No.	Hectares	Ares	Centiares
1	2	3	4	5	6
Dharinda	279	821	0	02	12
		827	0	06	09
		828	0	03	23
		829	0	00	60
		830	0	00	28
		832	0	01	37
		970	0	02	14
		971	0	01	67
		973	0	01	62
		984	0	01	41
		1045	0	00	72
		1046	0	00	04
		1048	0	00	16
		1050	0	01	74
Police Station : Daspur					
Dori Ayodhya	214	1459	0	02	63
		1369/3837	0	00	23
		3838	0	01	50
		1356	0	00	51
		1386	0	01	34
		1385	0	00	98
Gomokhpota	237	718	0	04	05
		720	0	08	90
		725	0	01	21
		726	0	01	53
		727	0	02	42
		728	0	02	83
		943	0	20	23

1	2	3	4	5	6
		944	0	00	04
		1049	0	09	71
		1521	0	04	25
		1537	0	06	87
		1538	0	00	04
		1544	0	01	20
		1545	0	09	30
		1546	0	03	48
		1549	0	09	10
		1550	0	06	47
		1551	0	00	20
		1567	0	00	12
		1569	0	01	21
		1570	0	02	22
		1571	0	02	02
		1572	0	00	60
		1573	0	01	78
		1574	0	02	02
		1576	0	01	41
		1577	0	01	69
		1537/2020	0	03	23
		725/1975	0	01	37
Narayanchak	238	931	0	03	64
		932	0	01	01
		936	0	00	22
		937	0	01	86
		938	0	10	52
		939	0	00	40
		942	0	01	61
		944	0	08	49
		976	0	00	20
		977	0	01	99
		920/1257	0	00	40

1	2	3	4	5	6
Bhagabatipur	211	2395	0	07	68
		2447	0	03	54
		2448	0	00	12
		2449	0	11	33
		2714	0	02	02
		2715	0	01	61
		2716	0	00	10
		2721	0	03	82
		2722	0	00	20
		2728	0	01	45
		2730	0	01	94
		2738	0	02	99
		2746	0	01	41
		2750	0	02	02
		2756	0	00	40
		2762	0	09	14
		2977	0	03	39
		2991	0	01	57
		2992	0	00	40
		2993	0	00	60
Jot Kanuramgarh	212	1401	0	00	80

Police Station : Khanakul		District : Hooghly	State : West Bengal		
Krishnanagar	37	153	00	00	02
		155	00	00	20
		156	00	00	42
		158	00	00	28
		159	00	00	40
		160	00	00	89
		161	00	01	13
		184	00	00	40
		185	00	00	65
		217	00	00	04

1	2	3	4	5	6
		218/696	00	00	02
Police Station : Dubrajpur District : Birbhum State : West Bengal					
Rengna	163	587	0	00	20
		781	0	03	23
		782	0	06	07
		786	0	02	43
		787	0	00	60
		788	0	13	35
		789	0	02	43
		833	0	03	64
		834	0	06	07
		836	0	05	26
		839	0	00	80
		841	0	00	80
		842	0	06	07
		843	0	00	40
		959	0	11	33
		960	0	00	04
		961	0	02	43
		963	0	00	20
		1202	0	02	43
		2398	0	03	23
		2400	0	06	48
		548/2674	0	04	05
Punglapur	3	518	0	01	21
		960	0	08	50
		965	0	04	05
		966	0	07	28
Kholakuri	5	3	0	08	50
		30	0	02	43
		31	0	04	86

1	2	3	4	5	6
		1178	0	06	88
Lakshmi Narayanpur	4	310	0	04	86

[No. R-25011/9/2002-O.R.-I]
RENUKA KUMAR, Under Secy.

नई दिल्ली, 3 फरवरी, 2003

का. आ. 469.— केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि गुजरात राज्य में मुन्द्रा पतन स्थित अपरिष्कृत तेल संस्थापन (सी.ओ.टी.) से पंजाब राज्य में मटिण्डा तक मुन्द्रा-मटिण्डा पाइपलाइन के माध्यम से अपरिष्कृत तेल के परिवहन के लिए गुरु गोविन्द सिंह रिफाइनरीज लिमिटेड, (हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड की समनुषंगी) द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जिसके भीतर उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, और जो इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उसमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर उक्त भूमि के भीतर पाइपलाइन बिछाने के सम्बन्ध में, श्री ए. आर. चौधरी, राक्षम प्राधिकारी, मुन्द्रा-मटिण्डा अपरिष्कृत तेल पाइपलाइन, पंजाब रिफाइनरी परियोजना, गुरु गोविन्द सिंह रिफाइनरीज लिमिटेड (हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड की समनुषंगी), एल.पी.जी. बॉटलिंग संयंत्र, हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड, भगत की कोठी, जोधपुर 342005 को लिखित रूप में आक्षेप भेज सकेगा.

अनुसूची					
तहसील : ओसियाँ			जिला : जोधपुर	राज्य : राजस्थान	
क्रम सं.	गाँव का नाम	खसरा नं.	हिस्सा क्रमांक	ROU क्षेत्रफल	
				बीघा	बिस्वा
	1	2	3	4	
1	उम्मेद नगर	168		0	07
2	जुड	331		1	18
3	वैलाव्य कला	72/1		0	15
		72/2		1	02
4	बसनी डोंवरा	1923/1		0	01
5	नांदिया कल्ला	181/1		0	08
6	चिन्दी	249		0	17

[फा. सं. आर-31015/45/01-ओ.आर-II]

हरीश कुमार, अवर सचिव

New Delhi, the 3rd February, 2003

S. O. 469.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of crude oil from crude oil terminal at Mundra Port in the State of Gujarat to Bathinda in the State of Punjab, through Mundra-Bathinda pipeline, a pipeline should be laid by Guru Gobind Singh Refineries Limited (a subsidiary of Hindustan Petroleum Corporation Limited);

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user (ROU) in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of this notification issued under sub-section (1) of section (3) of the said Act, are made available to the general public, object in writing to the laying of the pipeline under the land to Shri A.R. CHAUDHARY, Competent Authority, Mundra-Bathinda Crude Oil Pipeline, Punjab Refinery Project, Guru Gobind Singh Refineries Limited (a subsidiary of Hindustan Petroleum Corporation Limited), L.P.G. Bottling Plant, Hindustan Petroleum Corporation Limited, Bhagat Ki Kothi, Jodhpur - 342005.

SCHEDULE

Tehsil : Osiyan		District : Jodhpur		State : Rajasthan	
	Name of Village	Khasra No.	Part if Any	ROU-Area	
				Biga	Biswa
	1	2	3	4	
1	Umednagar	168		0	07
2	Jud	331		1	18
3	Kelawa Kalan	72/1		0	15
		72/2		1	02
4	Basni Danwara	1923/1		0	01
5	Nandiya Kalan	181/1		0	08
6	Chindri	249		0	17

[No. R-31015/45/01-O.R.-III]
HARISH KUMAR, Under Secy.

नई दिल्ली, 3 फरवरी, 2003

का. आ. 470.— केन्द्रीय सरकार पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962, (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii) तारीख 23 फरवरी, 2002, के पृष्ठ 1913 से पृष्ठ 1927 पर प्रकाशित भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 571, तारीख 19 फरवरी, 2002, में निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना की अनुसूची में :—

(क) पृष्ठ 1917 पर, गांव "उम्मेदनगर" के सामने,

- (i) सर्वे संख्यांक "365", भाग "1" में "1-00", क्षेत्रफल के स्थान पर "1-01", क्षेत्रफल रखा जाएगा ;
- (ii) सर्वे संख्यांक "365", भाग "7" में "1-08", क्षेत्रफल के स्थान पर "2-03", क्षेत्रफल रखा जाएगा ;
- (iii) सर्वे संख्यांक "173" (कार्ट ट्रैक सरकारी भूमि) में "0-02", क्षेत्रफल के स्थान पर "0-04", क्षेत्रफल रखा जाएगा ;
- (iv) सर्वे संख्यांक "172" में "2-14", क्षेत्रफल के स्थान पर "3-01", क्षेत्रफल रखा जाएगा ;
- (v) सर्वे संख्यांक "170" (कार्ट ट्रैक सरकारी भूमि) में "0-01", क्षेत्रफल के स्थान पर "0-03", क्षेत्रफल रखा जाएगा ;

- (ख) पृष्ठ 1917 पर, गांव "जुड" के सामने,
- (i) सर्वे संख्यांक "220" में "2-03", क्षेत्रफल के स्थान पर "2-17", क्षेत्रफल रखा जाएगा ;
 - (ii) सर्वे संख्यांक "220", भाग "2", में "2-13", क्षेत्रफल के स्थान पर "3-06", क्षेत्रफल रखा जाएगा ;
 - (iii) सर्वे संख्यांक "214" (गै. मु. आगौर सरकारी भूमि), "4-06", क्षेत्रफल के स्थान पर "4-17", क्षेत्रफल रखा जाएगा ;
 - (iv) सर्वे संख्या "219", में "2-08", क्षेत्रफल के स्थान पर "3-11", क्षेत्रफल रखा जाएगा ;
- (ग) पृष्ठ 1918 पर, स्तंभ 1 में आने वाले गाँव "जुड" के सामने,
- (i) सर्वे संख्यांक "327", में "0-10", क्षेत्रफल के स्थान पर "1-05", क्षेत्रफल रखा जाएगा ;
 - (ii) सर्वे संख्यांक "327", भाग "1" में "0-12", क्षेत्रफल के स्थान पर "0-14", क्षेत्रफल रखा जाएगा ;
 - (iii) सर्वे संख्यांक "328", (कार्ट ट्रेक सरकारी भूमि), "1-13", क्षेत्रफल के स्थान पर "1-14", क्षेत्रफल रखा जाएगा ;
- (घ) पृष्ठ 1918 पर, गांव "केलावा कलां" के सामने,
- (i) सर्वे संख्यांक "73", में "1-07", क्षेत्रफल के स्थान पर "1-08", क्षेत्रफल रखा जाएगा ;
 - (ii) सर्वे संख्यांक "59", में "0-13", क्षेत्रफल के स्थान पर "1-06", क्षेत्रफल रखा जाएगा ;
- (ङ) पृष्ठ 1920 पर, गांव "बासनी डोंवरा" के सामने,
- (i) सर्वे संख्यांक "1964" (गै.मु.भाकर सरकारी भूमि), में "5-01", क्षेत्रफल के स्थान पर "5-02", क्षेत्रफल रखा जाएगा ;
 - (ii) सर्वे संख्यांक "1967", में "0-08", क्षेत्रफल के स्थान पर "0-11", क्षेत्रफल रखा जाएगा ;
 - (iii) सर्वे संख्यांक "1968", में "1-07", क्षेत्रफल के स्थान पर "1-09", क्षेत्रफल रखा जाएगा ;
 - (iv) सर्वे संख्यांक "1921", में "2-16", क्षेत्रफल के स्थान पर "4-02", क्षेत्रफल रखा जाएगा ;

- (च) पृष्ठ 1921 पर, गांव "बासनी डोंवरा" के सामने,
 (i) सर्वे संख्यांक "2029" के स्थान पर पर सर्वे संख्यांक "1998", रखी जाएगी ;
- (छ) पृष्ठ 1922 पर, गांव "डोंवरा" के सामने,
 (i) सर्वे संख्यांक "1081", में "2-02", क्षेत्रफल के स्थान पर "2-14", क्षेत्रफल रखा जाएगा ;
- (ज) पृष्ठ 1923 पर, गांव "नांदिया कलां" के सामने,
 (i) सर्वे संख्यांक "68", में "0-07", क्षेत्रफल के स्थान पर "2-00", क्षेत्रफल रखा जाएगा ;
 (ii) सर्वे संख्यांक "182", भाग "2", में "1-09", क्षेत्रफल के स्थान पर "1-11", क्षेत्रफल रखा जाएगा ;
- (झ) पृष्ठ 1926 पर, गांव "नांदिया खुर्द" के सामने,
 (i) सर्वे संख्यांक "236", भाग "1", में "3-03", क्षेत्रफल के स्थान पर "4-01", क्षेत्रफल रखा जाएगा ;
- (ण) पृष्ठ 1926 पर, गांव "चिन्दड़ी" के सामने,
 (i) सर्वे संख्यांक "247", में "0-06", क्षेत्रफल के स्थान पर "0-10", क्षेत्रफल रखा जाएगा ;
- (त) पृष्ठ 1927 पर, गांव "चिन्दड़ी" के सामने,
 (i) सर्वे संख्या "261", भाग "1", में "2-09", क्षेत्रफल के स्थान पर "2-16", क्षेत्रफल रखा जाएगा ;

[फा. सं. आर-31015/45/01-ओ.आर-II]

हरीश कुमार, अवर सचिव

New Delhi, the 3rd February, 2003

S. O. 470.— In exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O 571, dated the 19th February, 2002, published at pages 1927 to 1941, in Part II, section 3, sub-section-(ii), of the Gazette of India, dated the 23rd February, 2002, namely:-

- (A) In Schedule to the said notification:-
 at page 1931, against village "UMEDNAGAR",
 (i) In Survey no. "365", part "1", for the area "1-00", the area "1-01", shall be substituted;
 (ii) In Survey no. "365", part "7", for the area "1-08", the area "2-03", shall be substituted;
 (iii) In Survey no. "173", Cart Track G.L., for the area "0-02", the area "0-04", shall be substituted;

- (iv) In Survey no. "172", for the area "2-14", the area "3-01", shall be substituted;
- (v) In Survey no. "170", Cart Track G.L., for the area "0-01", the area "0-03", shall be substituted;
- (B) at page 1931, against village "JUD",
 - (i) In Survey no. "220", for the area "2-03", the area "2-17", shall be substituted;
 - (ii) In Survey no. "220", part "2", for the area "2-13", the area "3-06", shall be substituted;
 - (iii) In Survey no. "214", G.M. Agour G.L., for the area "4-06", the area "4-17", shall be substituted;
 - (iv) In Survey no. "219", for the area "2-08", the area "3-11", shall be substituted;
- (C) at page 1932, against village "JUD",
 - (i) In Survey no. "327", for the area "0-10", the area "1-05", shall be substituted;
 - (ii) In Survey no. "327", part "1", for the area "0-12", the area "0-14", shall be substituted;
 - (iii) In Survey no. "328", for the area "1-13", the area "1-14", shall be substituted;
- (D) at page 1932, against village "KELAWA KALAN",
 - (i) In Survey no. "73", for the area "1-07", the area "1-08", shall be substituted;
 - (ii) In Survey no. "59", for the area "0-13", the area "1-06", shall be substituted;
- (E) at page 1934, against village "BASNI DANWARA",
 - (i) In Survey no. "1964", Bhakar G.L., for the area "5-01", the area "5-02", shall be substituted;
 - (ii) In Survey no. "1967", for the area "0-08", the area "0-11", shall be substituted;
 - (iii) In Survey no. "1968", for the area "1-07", the area "1-09", shall be substituted;
 - (iv) In Survey no. "1921", for the area "2-16", the area "4-02", shall be substituted;
- (F) at page 1935, against village "BASNI DANWARA",
 - (i) for Survey no. "2029", Survey no. "1998", shall be substituted;
- (G) at page 1936, against village "DANWARA",
 - (i) In Survey no. "1081", for the area "2-02", the area "2-14", shall be substituted;
- (H) at page 1937, against village "NANDIYA KALAN",
 - (i) In Survey no. "68", for the area "0-07", the area "2-00", shall be substituted;
 - (ii) In Survey no. "182", part "2", for the area "1-09", the area "1-11", shall be substituted;
- (I) at page 1940, against village "NANDIYA KHURD",
 - (i) In Survey no. "236", part "1", for the area "3-03", the area "4-01", shall be substituted;
- (J) at page 1940, against village "CHINDRI",
 - (i) In Survey no. "247", for the area "0-06", the area "0-10", shall be substituted;
- (K) at page 1941, against village "CHINDRI",
 - (i) In Survey no. "261", part "1", for the area "2-09", the area "2-16", shall be substituted.

[No. R-31015/45/01-O.R.-II]
HARISH KUMAR, Under Secy.

नई दिल्ली, 4 फरवरी, 2003

का. आ. 471.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 371 तारीख 01 फरवरी, 2002 और का. आ. 1652 तारीख 13 मई, 2002 द्वारा जो भारत के राजपत्र भाग 2, खण्ड 3, उपखण्ड (ii) में तारीख क्रमशः 9 फरवरी, 2002 और 18 मई 2002 को प्रकाशित की गई थी, गुजरात राज्य में जामनगर से मध्यप्रदेश राज्य में भोपाल तक जामनगर-भोपाल पाइपलाइन परियोजना के माध्यम से पुनः गैसीकृत द्रवित प्राकृतिक गैस के परिवहन के लिए गैस ट्रांसपोर्टेशन एण्ड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उन अधिसूचनाओं से संलग्न अनुसूचियों में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी ;

और, उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 4 अप्रैल, 2002 और 13 अगस्त, 2002 को उपलब्ध करा दी गई थीं ;

और पाइपलाइन बिछाने के सम्बन्ध में, जनता से प्राप्त आक्षेपों पर सक्षम प्राधिकारी द्वारा विचार कर लिया गया है और उन्हें अननुज्ञात कर दिया है ;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और, केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है

और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में पाइपलाइन बिछाने के लिए उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगमों से मुक्त गैस ट्रांसपोर्टेशन एंड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड में निहित होगा।

अनुसूची				
तालुका : कठलाल		जिला : खेडा		राज्य : गुजरात
गाँव का नाम		सर्वे नंबर / ब्लॉक नंबर		क्षेत्रफल
1	2	3	4	5
1. भानेर	830	0	20	70
	देयल	0	20	70
2. घोगावाडा	322/1	0	10	00
	322/8/1/अ	0	05	00
	देयल	0	15	00

[फा. सं. एल.-14014/11/02-जी.पी.]

स्वामी सिंह, निदेशक

New Delhi, the 4th February, 2003

S. O. 471.— Whereas by notifications of the Government of India in the Ministry of Petroleum and Natural Gas numbers S.O. 371, dated the 1st February, 2002 and S.O. 1652, dated the 13th May, 2002, published in Part II, section 3, sub-section (ii) of the Gazette of India dated the 9th February, 2002 and the 18th May, 2002, respectively, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962) (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to these notifications for the purpose of laying pipeline for transportation of regassified liquefied natural gas through the Jamnagar –Bhopal Pipeline Project from Jamnagar in the State of Gujarat to Bhopal in the State of Madhya Pradesh by Gas Transportation and Infrastructure Company Limited;

And whereas the copies of the said Gazette notification were made available to the public on 4th April, 2002 and 13th August 2002;

And whereas the objections received from the public to the laying of the pipeline have been considered and disallowed by the Competent Authority;

And whereas the Competent Authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired, for laying the pipeline.;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest, on this date of publication of the declaration, in Gas Transportation and Infrastructure Company Limited free from all encumbrances.

SCHEDULE

Taluka : KATHLAL

District : KHEDA

State : Gujarat

Name of the Village	Survey No. / Block No.	Area		
		Hectare	Are	Sq.Mtr.
1	2	3	4	5
1. BHANER	830	0	20	70
Total :-		0	20	70
2. GHOGAWADA	322/1	0	10	00
	322/8/1/A	0	05	00
Total :-		0	15	00

[No. L-14014/11/02-G.P.]
SWAMY SINGH, Director

नई दिल्ली, 4 फरवरी, 2003

का. आ. 472.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम-1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है), की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 2225 तारीख 02 जुलाई, 2002 द्वारा गोवा के उत्तरी और दक्षिणी समुद्र अपतट और आन्ध्रप्रदेश राज्य की संरचनाओं से कर्नाटक राज्य के बीदर जिले में विभिन्न उपभोक्ताओं तक खोज ब्लॉकों में उत्पादित प्राकृतिक गैस के परिवहन के लिए, मैसर्स गैस ट्रांसपोर्टेशन एंड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड, जिसकी संवर्धन कंपनी मैसर्स रिलायंस इन्डस्ट्रीज लिमिटेड है, द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उक्त अधिसूचना के संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग का अर्जन करने के अपने आशय की घोषणा की थी ;

और उक्त अधिसूचना की प्रतियाँ जनता को तारीख 23 जुलाई, 2002 को उपलब्ध करा दी गई थीं ;

और पाइपलाइन बिछाने के संबंध में जनता से प्राप्त आक्षेपों पर सक्षम प्राधिकारी द्वारा विचार कर लिया गया है और उन्हें अननुज्ञात कर दिया गया है;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है उसमें उपयोग के अधिकार अर्जन करने का विनिश्चय किया है ;

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है ;

और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि पाइपलाइन बिछाने के लिए उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त गैस ट्रांसपोर्टेशन एंड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड में निहित होगा।

अनुसूची (क)							
तालुका बसवकल्याण		जिला बीदर		राज्य कर्नाटक			
अ. क्र.	गांव का नाम	सर्वे नं	हिस्सा नं	गट नं	क्षेत्र		
1	2	3	4	5	हेक्टेर	आर	सेंटीआर
1	यळदती	79	4		0	29	90
		79	2		0	39	80
		80	1		0	87	60
		80	2		0	15	20
		रास्ता, सर्वे नं 80 में			0	06	00
		87	5		1	02	40
		83			0	00	60
		84	2		0	00	60
		85	2		0	40	20
		114			0	20	40
		113			0	03	90
		गाड़ी रास्ता, सर्वे नं 113 और 3 के बीच में			0	03	80
		39	AP3		0	02	10
		39	9		0	15	80
		45			0	10	90
		42			0	44	40
	कुल				4	23	60
2	कलखोरा	23	1		0	72	80
		23	3		0	03	60
		21	2		0	69	90
		रास्ता, सर्वे नं 21/2 और 24/4 के बीच में			0	07	10
		24	4		0	64	80
		18			0	04	00
		24	6		0	41	00
		28			0	87	30
		30			1	12	60
		109			1	18	20
		रास्ता, सर्वे नं 111 और 108 के बीच में			0	04	00
		108			0	02	00
		93			0	85	80
		94			0	79	70
		95			0	83	30
		74			0	27	10
		85			0	16	00
		86			0	03	60
	कुल				8	82	80
3	जनवाडा	6	1		0	70	80
		6	2		0	09	80
		7			0	38	40
		नाला सर्वे नं 15,8 और 2 के बीच में			0	16	10
		गाड़ी रास्ता, सर्वे नं 8 और 2 के बीच में			0	05	00

तालुका बसवकल्याण		जिला बीदर		राज्य कर्नाटक			
अ. क.	गाव का नाम	सर्वे नं	हिस्सा नं	गट नं	क्षेत्र		
1	2	3	4	5	हेक्टर	बार	सेटीबार
	जनवास नैरंतर	15	3		0	33	60
		14			1	28	50
		12	7		0	06	50
	कुल				3	08	70
4	मैसलगा	115	3		0	29	90
		107			1	05	80
		106	1		0	58	50
	एस एच - 11 सर्वे नं 82 और 106 के बीच में				0	07	40
		82			0	58	60
		81			0	36	90
		80	3		0	25	20
		78	1		0	38	40
		78	2		0	49	10
	कुल				4	09	80
तालुका हुमनाबाद		जिला बीदर		राज्य कर्नाटक			
1	वळखिडी	79	1		0	30	10
		79	3		0	10	90
		79	2		0	39	80
		80	2		0	13	70
		80	3		0	01	80
		80	5		0	06	70
		80	4		0	01	70
		76	1		0	22	80
		76	2		0	05	70
		76	6		0	36	50
		75	9		0	07	20
		75	8		0	49	80
		75	7		0	21	30
		74			0	65	50
		73	2		0	00	40
		73	6		0	16	80
		73	10		0	25	20
		73	5		0	18	60
		73	9		0	19	20
		71			0	70	70
		70	11		0	01	90
		70	10		0	46	50
		69			0	27	00
		64	3		0	46	10
		64	2		0	21	60

निरंतर 4

तालिका क्रमांक		जिला बीदर			राज्य कुर्नाटक		
क्र. सं.	गाँव का नाम	सर्वे नं.	हिल्ला नं.	पट नं.	क्षेत्र		
					हेक्टेर	आर	सेंटीमीटर
1	2	3	4	5	6	7	8
	दक्षिणी नौरौर	64	5		0	19	80
		64	8		0	40	80
		63			1	36	80
	रास्ता, सर्वे नं 63 और 61 के बीच में				0	10	00
		61			1	11	30
	कुल				9	26	20
2	मुदनाळ	131			0	13	50
		132	2		0	08	00
		133			1	15	50
		127			0	42	00
		126			0	33	10
		135			0	63	50
		138	B		0	04	10
		125			0	01	90
		139	2		1	66	20
		3			0	18	90
		8			0	68	90
		15			0	20	10
	रास्ता, सर्वे नं 15 में				0	03	90
		14			0	98	70
		13			0	61	50
	कुल				7	19	80
3	कोडम्बल	293			0	42	70
		295	B		0	66	80
		298			0	83	80
		308	A		0	59	60
	रास्ता, सर्वे नं 318 और 308 के बीच में				0	02	10
		310	1		0	18	30
		310	2		0	31	00
		311			0	59	40
		314			1	29	70
		315			0	03	20
		78			0	07	80
		55	2		0	20	00
		56			0	32	00
		59			0	15	70
		76	1B		0	13	10
		76	2B		0	26	40
		74	2		0	10	00
		74	3		0	10	80

तालुका हुमनाबाद		जिला बीदर		राज्य कर्नाटक			
अ. क्र.	गांव का नाम	सर्वे नं	हिस्सा नं	पट नं	क्षेत्र		
					हेक्टेर	आर	सेंटीआर
1	2	3	4	5	6	7	8
	कोडम्बल नीरतर	73	2		0	15	20
		72			0	29	30
		71			0	34	50
		70			0	20	30
		68	1		0	20	40
		85	2A1		0	23	80
		84	2		0	11	70
		102	1		0	26	40
		103	3		0	07	80
		105	2		0	41	80
		105	4		0	48	50
	कुल				9	12	10
4	मुस्तारी	298			0	58	10
		299			0	64	50
	कुल				1	22	60
5	उदबाळ	244			0	56	00
		243			0	73	00
		242			0	30	40
	रास्ता, सर्वे नं 242 और 239 के बीच में				0	09	10
		239			0	58	20
		206			1	13	50
		208			0	01	00
		207	B		0	55	70
		198			0	22	70
		199			0	16	70
		200			0	66	30
		203			1	98	10
		201			0	06	70
		186			0	68	30
		178			0	53	40
	नाला सर्वे नं 178 और 176 के बीच में				0	04	40
		176			0	63	30
		167			0	31	50
		165			0	22	60
		164			0	18	60
		162			0	24	90
	रास्ता, सर्वे नं 162 और 87 के बीच में				0	06	10
		87			0	51	60
		86			0	45	90
		85	3		0	25	20

तालुका हुमनाबाद		जिला बीदर		राज्य कर्नाटक			
अ. क्र.	गांव का नाम	सर्वे नं	हिस्सा नं	गट नं	क्षेत्र		
					हेक्टेर	आर	सेंटीआर
1	2	3	4	5	6	7	8
	उम्बाळ नीरतर	83			0	37	20
		82			0	63	00
		नाला सर्वे नं 82 और 80 के बीच में			0	05	70
		80			0	73	30
		118			0	53	40
		77			0	49	80
		75			0	45	00
		124			0	37	20
		128			0	36	20
		129			0	44	40
		नाला सर्वे नं 129 और नीर्णा गांव के सीमा के बीच में			0	04	60
	कुल				15	73	00
6	नीर्णा	नाला उम्बाळ गांव के सीमा और सर्वे नं 504 के बीच में			0	06	20
		504			0	03	10
		506			0	56	60
		507			1	52	10
		508			0	23	40
		509			0	26	50
		510			0	16	70
		511			0	29	10
		नाला सर्वे नं 511 और 513 के बीच में			0	08	20
		513			0	58	10
		471			0	38	10
		367			0	85	70
		368			0	80	90
		366			0	02	40
		371			0	31	60
		372			0	28	20
		365			0	34	60
		364			0	94	10
		363			0	48	20
		362			0	68	20
		359			0	90	50
	कुल				9	82	50
7	मुत्तंगी	179			0	31	80
		रास्ता, सर्वे नं 179 और 14 के बीच में			0	12	20
		10			0	05	80
		12			0	00	80
		नाला सर्वे नं 11 और 17 के बीच में			0	08	80

तालुका हुमनाबाद		जिला बीदर			राज्य कर्नाटक		
अ. क्र.	गांव का नाम	सर्वे नं	हिस्सा नं	पट नं	क्षेत्र		
					हेक्टेर	बार	सेंटीबार
1	2	3	4	5	6	7	8
	मुत्तंगी नीरतार	17			0	38	10
		21			1	23	90
		56			0	20	80
	कुल				2	42	20
8	बसीरपुर	69			0	51	20
	गाड़ी रास्ता, सर्वे नं 68 और 69 के बीच में				0	15	70
	68				0	27	80
	रास्ता, सर्वे नं 71 में				0	03	10
	72				0	65	60
	गाड़ी रास्ता, सर्वे नं 72 और 74 के बीच में				0	05	50
	74				1	48	70
	43				0	79	20
	42				0	78	70
	22				0	03	90
	23 (सरकारी)				0	00	40
	24				0	58	80
	26				0	91	80
	कुल				6	30	40
9	पोलकपडी	57			0	39	50
	5				0	48	80
	4				0	21	60
	नाला सर्वे नं 4 और 9 के बीच में				0	12	40
	9				0	61	50
	10				0	47	40
	11		2		0	26	90
	14				0	99	30
	कुल				3	57	40
10	दिमठखेड़ा	553			0	99	00
	557		1		0	47	00
	558				0	50	50
	559				0	25	50
	560				0	50	10
	561		1		0	81	30
	542 (सरकारी)				0	01	10
	एस एच - 15 सर्वे नं 541 और 566 के बीच में				0	13	90
	566				0	01	30
	565				0	76	40

तालुका हुमनाबाद		जिला बीदर		राज्य कर्नाटक		
अ. क्र.	गांव का नाम	सर्वे नं.	हिस्सा नं.	गट नं.	क्षेत्र	
					हेक्टेर	आर
	विमलखेडा नीरतर	523			1	53
		529			1	35
		530			0	14
		507			1	51
		506			0	25
	कुल				9	27
11	कारपाकपल्ली	118			0	85
		120			0	67
		124			1	82
		123			0	16
	रास्ता, सर्वे नं 124 और 4 के बीच में				0	03
		3			0	56
		13			0	00
		12			0	23
		5	3		0	01
		6	2		0	36
	कुल				4	72
12	उडमनाहल्ली	253			0	01
		254	2		0	36
		252			0	23
		256			0	44
	रास्ता, सर्वे नं 256 और 264 के बीच में				0	05
		264			0	25
		263	1		0	12
		263	2		0	08
		263	4		0	13
		263	3		0	10
		262			0	04
	266 (सरकारी)				0	30
	गाड़ी रास्ता, सर्वे नं 8 और 266 के बीच में				0	08
		9			0	45
		7			0	05
		14			0	10
		16			0	06
		15			0	62
		39			0	48
		37			0	15
		36	1		0	42
		35			0	52
		48			0	30

तालुका हुमनाबाद		जिला बीदर		राज्य कर्नाटक			
अ. क्र.	गांव का नाम	सर्वे नं	हिस्सा नं	पट नं	क्षेत्र		
					हेक्टेर	बार	सेंटीबार
	उड्डमनहळी नीरतर	51			1	11	90
		गाडी रास्ता, सर्वे नं 59 और 51 के बीच में			0	15	00
		59	A		0	13	20
		53	1		0	39	00
		52			1	08	60
		89			0	68	90
		90	A		0	43	00
		101	1A		0	52	00
		103			0	02	90
		102			1	03	90
कुल					11	02	70

[फा. सं. एल.-14014/33/02-जी.पी.]

स्वामी सिंह, निदेशक

New Delhi, the 4th February, 2003

S. O. 472.— Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas, number S.O. 2225 dated the 2nd July, 2002 issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962) (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying pipeline for transport of natural gas from, the exploration blocks in the Northern/Southern Offshore of Goa and Structures in Andhra Pradesh of M/s Reliance Industries Limited, the promoter company of M/s Gas Transportation and Infrastructure Company Limited to the various consumers of District Bidar in the State of Karnataka by M/s Gas Transportation and Infrastructure Company Limited;

And whereas the copies of the said Gazette notification were made available to the public on the 23rd July, 2002;

And whereas the objections received from the public to the laying of the pipeline have been considered and disallowed by the competent authority;

And whereas the Competent Authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government after considering the said report and on being satisfied that the said land is required for laying pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired, for laying the pipeline.;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vests, on this date of publication of this declaration, in Gas Transportation and Infrastructure Company Limited, free from all encumbrances.

SCHEDULE							
Taluka - Basavakalyan		District : Bidar			State : Karnataka		
Sl. No.	Village Name	Survey No.	Hissa No.	Gat No.	Area		
					Hectare	Are	Centiare
1	2	3	4	5	6	7	8
1	Yelwanthi	79	4		0	29	90
		79	2		0	39	80
		80	1		0	87	60
		80	2		0	15	20
		Road in Sy.No. 80			0	06	00
		87	5		1	02	40
		83			0	00	60
		84	2		0	00	60
		85	2		0	40	20
		114			0	20	40
		113			0	03	90
		Cart Track between Sy. No. 113 & 3			0	03	80
		39	AP3		0	02	10
		39	9		0	15	80
		45			0	10	90
		42			0	44	40
	Total :-				4	23	60
2	Kalkhora	23	1		0	72	80
		23	3		0	03	60
		21	2		0	69	90
		Road between Sy. No. 21/2 & 24/4			0	07	10
		24	4		0	64	80
		18			0	04	00
		24	6		0	41	00
		28			0	87	30
		30			1	12	60
		109			1	18	20
		Road between Sy. No. 111 & 108			0	04	00
		108			0	02	00
		93			0	85	80
		94			0	79	70
		95			0	83	30
		74			0	27	10
		85			0	16	00
		86			0	03	60
	Total				8	82	80
3	Janawada	6	1		0	70	80
		6	2		0	09	80
		7			0	38	40
		Nala between Sy. No. 15, 8 & 2			0	16	10
		Cart Track between Sy. No. 8 & 2			0	05	00
		15	3		0	33	60
		14			1	28	50
		12	7		0	06	50
	Total :				3	08	70

Taluka - Basavakalyan		District : Bidar		State : Karnataka			
Sl. No.	Village Name	Survey No.	Hissa No.	Gat No	Area		
					Hectare	Are	Centiare
1	2	3	4	5	6	7	8
4	Malsalga	115	3		0	29	90
		107			1	05	80
		106	1		0	58	50
		SH - 11 between Sy. No. 82 & 106			0	07	40
		82			0	58	60
		81			0	36	90
		80	3		0	25	20
		78	1		0	38	40
		78	2		0	49	10
Total:-					4	09	80
Taluka - Humnabad		District : Bidar		State : Karnataka			
1	Walkhindi	79	1		0	30	10
		79	3		0	10	90
		79	2		0	39	80
		80	2		0	13	70
		80	3		0	01	80
		80	5		0	06	70
		80	4		0	01	70
		76	1		0	22	80
		76	2		0	05	70
		76	6		0	36	50
		75	9		0	07	20
		75	8		0	49	80
		75	7		0	21	30
		74			0	65	50
		73	2		0	00	40
		73	6		0	16	80
		73	10		0	25	20
		73	5		0	18	60
		73	9		0	19	20
		71			0	70	70
		70	11		0	01	90
		70	10		0	46	50
		69			0	27	00
		64	3		0	46	10
		64	2		0	21	60
		64	5		0	19	80
		64	8		0	40	80
		63			1	36	80
		Road between Sy. No. 63 & 61			0	10	00
		61			1	11	30
Total: -					9	26	20
2	Mudanai	131			0	13	50
		132	2		0	08	00
		133			1	15	50
		127			0	42	00
		126			0	33	10
		135			0	63	50

Taluka - Humnabad		District : Bijar			State : Karnataka		
Sl. No.	Village Name	Survey No.	Hisa No	Pat No	Area		
1	2	3	4	5	Hectare	Are	Centiare
	Mudanai Contd	138	B		0	04	10
		125			0	01	90
		139	2		1	66	20
		3			0	18	90
		8			0	88	90
		15			0	20	10
	Road in Sy. No. 15				0	03	90
		14			0	98	70
		13			0	61	50
Total:-					7	19	80
3	Kodambai	293			0	42	70
		295	B		0	66	80
		298			0	83	80
		308	A		0	59	60
	Road between Sy. No. 318 & 308				0	02	10
		310	1		0	18	30
		310	2		0	31	00
		311			0	59	40
		314			1	29	70
		315			0	03	20
		78			0	07	80
		55	2		0	20	00
		56			0	32	00
		59			0	15	70
		76	1B		0	13	10
		76	2B		0	26	40
		74	2		0	10	00
		74	3		0	10	80
		73	2		0	15	20
		72			0	29	30
		71			0	34	50
		70			0	20	30
		68	1		0	20	40
		85	2A1		0	23	80
		84	2		0	11	70
		102	1		0	26	40
		103	3		0	07	80
		105	2		0	41	80
		105	4		0	48	50
Total: -					9	12	10
4	Mustari	298			0	58	10
		299			0	64	50
Total :-					1	22	60
5	Udbai	244			0	56	00
		243			0	73	00
		242			0	30	40
	Road between Sy. No. 242 & 239				0	09	10

Taluka - Humnabad		District : Bidar			State : Karnataka		
Sl. No.	Village Name	Survey No.	Hissa No.	Gat No.	Area		
					Hectare	Are	Centiare
1	2	3	4	5	6	7	8
	Udbal Contd	239			0	58	20
		206			1	13	50
		208			0	01	00
		207	B		0	55	70
		198			0	22	70
		199			0	16	70
		200			0	66	30
		203			1	98	10
		201			0	06	70
		186			0	68	30
		178			0	53	40
		Nala between Sy. No. 178 & 176			0	04	40
		176			0	63	30
		167			0	31	50
		165			0	22	60
		164			0	18	60
		162			0	24	90
		Road between Sy. No. 162 & 87			0	06	10
		87			0	51	60
		86			0	45	90
		85	3		0	25	20
		83			0	37	20
		82			0	63	00
		Nala between Sy. No. 82 & 80			0	05	70
		80			0	73	30
		118			0	53	40
		77			0	49	80
		75			0	45	00
		124			0	37	20
		128			0	36	20
		129			0	44	40
		Nala between Sy. No. 129 & Nirna Boundary			0	04	60
					15	73	00
6	Nirna	Nala between Udbal Boundary & Sy. No. 504			0	06	20
		504			0	03	10
		506			0	56	60
		507			1	52	10
		508			0	23	40
		509			0	26	50
		510			0	16	70
		511			0	29	10
		Nala between Sy. No. 511 & 513			0	08	20
		513			0	58	10
		471			0	38	10
		367			0	85	70
		368			0	80	90
		366			0	02	40

Taluka - Humnabad		District : Bidar			State : Karnataka		
Sl. No.	Village Name	Survey No.	Hissa No	Gat No	Area		
1	2	3	4	5	Hectare	Are	Centlare
	Nirna Contd	371			0	31	60
		372			0	28	20
		365			0	34	60
		364			0	94	10
		363			0	48	20
		362			0	68	20
		359			0	90	50
	Total :-				9	82	50
7	Muthangi	179			0	31	80
	Road between Sy. No. 179 & 14	10			0	12	20
		12			0	05	80
	Nala between Sy. No. 11 & 17	17			0	00	80
		21			0	08	80
		56			0	38	10
					1	23	90
	Total :-				0	20	80
	Total :-				2	42	20
8	Baseerapur	69			0	51	20
	Cart between Sy. No. 68 & 69	68			0	15	70
	Road in Sy. No. 71	72			0	27	80
	Cart between Sy. No. 72 & 74	74			0	03	10
		43			0	65	60
		42			0	05	50
		22			1	48	70
	23 (Govt Land)	24			0	79	20
		26			0	78	70
					0	03	90
					0	00	40
					0	58	80
	Total :-				0	91	80
	Total :-				6	30	40
9	Polakapalli	57			0	39	50
		5			0	48	80
		4			0	21	60
	Nala between Sy. No. 4 & 9	9			0	12	40
		10			0	61	50
		11			0	47	40
		14	2		0	26	90
	Total :-				0	99	30
	Total :-				3	57	40
10	Bimalkhed	553			0	99	00
		557	1		0	47	00
		558			0	50	50
		559			0	25	50
		560			0	50	10
		561	1		0	81	30
	542 (Govt Land)				0	01	10
	SH - 15 between Sy. No. 541 & 566				0	13	90
		566			0	01	30
		565			0	76	40
		523			1	53	90
		529			1	35	70

Taluka - Humnabad		District : Bidar			State : Karnataka		
Sl. No.	Village Name	Survey No.	Hissa No.	Gat No.	Area		
1	2	3	4	5	Hectare	Are	Centiare
	Bimalkhed Contd	530			0	14	40
		507			1	51	50
		506			0	25	80
	Total : -				9	27	40
11	Karapakapalli	118			0	85	70
		120			0	67	10
	124 (Govt Gairana)				1	82	70
		123			0	16	00
	Road between Sy. No. 124 & 4				0	03	50
		3			0	56	60
		13			0	00	70
		12			0	23	10
		5	3		0	01	00
		6	2		0	36	50
	Total:-				4	72	90
12	Udmanahalli	253			0	01	80
		254	2		0	36	20
		252			0	23	40
		256			0	44	70
	Road between Sy. No. 256 & 264				0	05	30
		264			0	25	50
		263	1		0	12	00
		263	2		0	08	10
		263	4		0	13	50
		263	3		0	10	50
		262			0	04	10
	266 Govt Land				0	30	10
	Cart Track between Sy. No. 9 & 266				0	08	40
		9			0	45	90
		7			0	05	50
		14			0	10	40
		16			0	06	30
		15			0	62	80
		39			0	48	20
		37			0	15	60
		36	1		0	42	80
		35			0	52	60
		48			0	30	60
		51			1	11	90
	Cart track in Sy. No. 59 & 51				0	15	00
		59	A		0	13	20
		53	1		0	39	00
		52			1	08	60
		89			0	68	90
		90	A		0	43	00
		101	1A		0	52	00
		103			0	02	90
		102			1	03	90
	Total: -				11	02	70

[No. L-14014/33/02-G.P.]
SWAMY SINGH, Director

नई दिल्ली, 5 फरवरी, 2003

का. आ. 473.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है), की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का. आ. 2697 तारीख 21 अगस्त, 2002 और 2698 तारीख 21 अगस्त 2002 के साथ पृष्ठित का. आ. 960 तारीख 13 मार्च 2002 द्वारा गोवा के उत्तरी और दक्षिणी समुद्र अपतट के खोज ब्लॉकों और आन्ध्रप्रदेश राज्य में हैदराबाद स्थित संरचनाओं से कर्नाटक राज्य के गुलबर्गा जिले में विभिन्न उपभोक्ताओं तक उत्पादित प्राकृतिक गैस के परिवहन के लिए, मेसर्स गैस ट्रांसपोर्टेशन एंड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड, जिसके संवर्धन कंपनी अर्थात् मेसर्स रिलायंस इन्डस्ट्रीज लिमिटेड है, द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उक्त अधिसूचना के संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार के अर्जन करने के अपने आशय की घोषणा की थी ;

और, उक्त अधिसूचना की प्रतियाँ जनता को तारीख 21 सितम्बर, 2002 को उपलब्ध करा दी गई थी ;

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सक्षम प्राधिकारी ने केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर कि पाइपलाइन बिछाई जाने के लिए उक्त भूमि अपेक्षित है उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है ;

और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने के बजाए सभी विल्लंगों से मुक्त गैस ट्रांसपोर्टेशन एंड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड में निहित होगा।

अनुसूची (क)							
तालुका गुलबर्गा		जिला गुलबर्गा			राज्य कर्नाटक		
अ. क्र.	गांव का नाम	सर्वे नं.	हिस्सा नं.	पट नं.	क्षेत्र		
1	2	3	4	5	हेक्टेर	आर	सेंटीआर
1	वरनाळ	नाला, सर्वे नं 22 में			0	12	40
		22	1		0	46	20
	कुल				0	46	20
2	डोरजमगांव	205	1B		0	20	30
		205	B		0	48	90
		213	3A		0	05	60
		163	1		0	20	70
	गाड़ी रास्ता, सर्वे नं 165 और 87 के बीच में				0	10	10
		176	1		0	31	10
		176	2A		0	18	80
		176	2B		0	09	00
	रास्ता, सर्वे नं 87 और 81 के बीच में				0	09	50
		81	2		0	69	20
		52	1		0	18	30
		52	3		0	31	80
		52	4		0	15	60
		32	2		1	00	90
		32	3		0	32	10
	कुल				4	41	90
3	कीणिण (सडक)	101	2		0	48	00
		102	2		0	31	80
	रास्ता, सर्वे नं 102 और 98 के बीच में				0	06	40
		98	1		0	47	90
	नाला, सर्वे नं. 77 और 98 के बीच में				0	07	60
		80			0	12	80
		55			0	62	10
		45	2		0	55	80
	रास्ता, सर्वे नं 30 में				0	05	40
	कुल				2	77	80
4	डोरजमगांव	नाला सर्वे नं 5			0	05	90
		6	1		0	30	00
		6	2		0	31	40
		9	5		0	19	80
		9	13		0	37	80
	कुल				1	24	90
5	गोबरवाडी	104	5		0	22	20
	गाड़ी रास्ता, सर्वे नं 102 और 104 के बीच में				0	60	20
		97			0	28	50
	मुल्ला गारी नदी 56 और 97 के बीच में				0	17	70
		56	1		0	04	10
		56	2		0	30	10
		62	1		0	34	80

तालुका गुलबर्गा		जिला गुलबर्गा			राज्य कर्नाटक		
अ. क्र.	गांव का नाम	सर्वे नं.	हिस्सा नं.	गट नं.	क्षेत्र		
					हेक्टेर	आर	सेंटीआर
1	2	3	4	5	6	7	8
	गोबरवाडी नीरतर	62	2		0	04	20
		63			0	01	60
		67	1		0	17	90
		67	2		0	21	60
		71			0	43	50
		40	2/2		0	01	90
		41			0	79	00
		42			0	55	20
		36 (सरकारी)			0	04	50
	नाला, सर्वे नं. 33 में				0	06	00
	कुल				3	89	00
6	नीळकोडा	80	1		0	22	40
		72			0	29	40
		55	1		0	09	90
		55	2		0	28	40
		55	3		0	17	90
	कुल				1	07	90
7	काळभंदरणी	137	1		0	60	00
		137	2		0	31	30
		137	3		0	55	40
		137	4		0	08	80
	कुल				1	55	50

[फा. सं. एल.-14014/17/02-जी.पी.]

स्वामी सिंह, निदेशक

New Delhi, the 5th February, 2003

S. O. 473.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas, number S.O. 960 dated the 13th March 2002 read with S.O. 2697 dated the 21st August 2002 and S.O. 2698 dated the 21st August 2002 issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962) (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying pipeline for transport of natural gas from, the exploration blocks in the Northern/Southern Offshore of Goa and Structures in Andhra Pradesh of M/s Reliance Industries Limited, the promoter company of M/s Gas Transportation and Infrastructure Company Limited to the various consumers of District Gulbarga in the State of Karnataka by M/s Gas Transportation and Infrastructure Company Limited;

And whereas the copies of the said Gazette notification were made available to the public on the 21st September, 2002;

And whereas the Competent Authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government after considering the said report and on being satisfied that the said land is required for laying pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired, for laying the pipeline.;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest, on the date of publication of the declaration, in Gas Transportation and Infrastructure Company Limited, free from all encumbrances.

SCHEDULE							
Taluka - Gulbarga		District - Gulbarga			State - Karnataka		
Sl. No.	Village Name	Survey No.	Hissa No.	Gat No.	Area		
					Hectare	Are	Centiare
1	2	3	4	5	6	7	8
1	Varnal	Nala in sy.no. 22			0	12	40
		22	1		0	46	20
	Total:				0	58	60
2	Dongargaon	205	1B		0	20	30
		205	B		0	48	90
		213	3A		0	05	60
		163	1		0	20	70
		Cart Track between sy.no. 165 & 87			0	10	10
		176	1		0	31	10
		176	2A		0	18	80
		176	2B		0	09	00
		Road between sy.no. 87 & 81			0	09	50
		81	2		0	69	20
		52	1		0	18	30
		52	3		0	31	80
		52	4		0	15	60
		32	2		1	00	90
		32	3		0	32	10
	Total:				4	41	90
3	Kinnisadak	101	2		0	48	00
		102	2		0	31	80
		Road between sy.no. 102 & 98			0	06	40
		98	1		0	47	90
		Nala between sy.no. 77 & 98			0	07	60
		80			0	12	80
		55			0	62	10
		45	2		0	55	80
		Road in sy.no. 30			0	05	40
	Total:				2	77	80
4	Dorjamga	Canal in sy.no. 5			0	05	90
		6	1		0	30	00
		6	2		0	31	40
		9	5		0	19	80
		9	13		0	37	80
	Total:				1	24	90

Taluka - Gulbarga		District - Gulbarga		State - Karnataka			
Sl. No.	Village Name	Survey No.	Hissa No.	Gat No.	Area		
1	2	3	4	5	Hectare	Are	Centiare
5	Gobarwadi	104	5		0	22	20
		Cart Track between sy.no. 102 & 104			0	60	20
		97			0	28	50
		Mullamari Nadi between sy.no. 56 & 97			0	17	70
		56	1		0	04	10
		56	2		0	30	10
		62	1		0	34	80
		62	2		0	04	20
		63			0	01	60
		67	1		0	17	90
		67	2		0	21	60
		71			0	43	50
		40	2/2		0	01	90
		41			0	79	00
		42			0	55	20
		36 (Govt Land)			0	04	50
		Canal in sy.no. 33			0	06	00
	Total:				3	89	00
6	Nilkod	80	1		0	22	40
		72			0	29	40
		55	1		0	09	90
		55	2		0	28	40
		55	3		0	17	90
	Total:				1	07	90
7	Kalmandargi	137	1		0	60	00
		137	2		0	31	30
		137	3		0	55	40
		137	4		0	08	80
	Total:				1	55	50

[No. L-14014/17/02-G.P.]
SWAMY SINGH, Director

नई दिल्ली, 5 फरवरी, 2003

का. आ. 474.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है), की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की सं. का. आ. 3068 और सं. का. आ. 3069 तारीख 23 सितम्बर 2002 के क्षेत्रों के सरूप पृष्ठित अधिसूचना सं. का. आ. 959 तारीख 13 मार्च 2002 द्वारा गोवा के उत्तरी दक्षिणी समुद्र अपतट के खोज ब्लॉकों और आन्ध्रप्रदेश राज्य में हैदराबाद स्थित संरचनाओं से कर्नाटक राज्य के गुलबर्गा जिले में विभिन्न उपभोक्ताओं तक उत्पादित प्राकृतिक गैस के परिवहन के लिए, मेसर्स गैस ट्रांसपोर्टेशन एंड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड, जिसकी संवर्धन कंपनी अर्थात् मेसर्स रिलायंस इन्डस्ट्रीज लिमिटेड है, द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार के अर्जन के अपने आशय की घोषणा की थी ;

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 2 नवम्बर, 2002 को उपलब्ध करा दी गई थी ;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर कि पाइपलाइन बिछाई जाने के लिए उक्त भूमि अपेक्षित है उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है ;

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने के बजाए सभी विल्लगमों से मुक्त गैस ट्रांसपोर्टेशन एंड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड में निहित होगा।

अनुसूची 8 (1)							
तालुका आबंद			जिला मूलबर्गी		राज्य कर्नाटक		
अ. क्र.	गांव का नाम	सर्वे नं.	हिस्सा नं.	पट्ट नं.	हेक्टेर	आर	सेटीआर
1	2	3	4	5	6	7	8
1	कामनहल्ली	42	2		0	09	90
		42	9/1		0	21	30
		31	2A		0	17	10
		31	2B		0	23	60
		69	2		0	05	00
		रास्ता, सर्वे नं. 69/2 और 69/1 के बीच में			0	04	40
		68	1		0	29	30
		68	2		0	15	50
		7	A		0	40	20
		7	C		0	17	30
		7	E		0	16	80
		7	F		0	13	20
		7	G		0	11	70
		6	1/1		0	36	60
		9	3		0	13	80
		9	7		0	01	10
		9	6		0	07	60
		9	10		0	46	80
		10	3		1	02	00
		कुल			4	33	20
2	साकर्गा	55	2A		0	59	40
		56	1/B		0	34	20
		56	1/D		0	46	80
		71			0	27	40
		79	3		0	37	20
		9	2C		0	40	80
		9	2B		0	16	60
		रास्ता, सर्वे नं. 9/2 में			0	06	20
		19			0	18	90
		कुल			2	87	50
3	सावळेश्वर	184	11		0	09	20
		184	14		0	11	40
		184	12		0	50	50
		नाला, सर्वे नं. 184 और 175 के बीच में			0	10	30
		175	3		0	04	60
		174	1A		0	17	30
		174	1B		0	27	90
		3	2B		0	25	70
		16	2		0	31	80
		23	6		0	49	50
		23	7		0	05	60
		नाला, सर्वे नं. 20 और 23 के बीच में			0	08	00
		रास्ता, सर्वे नं. 22 और 43 के बीच में			0	04	10
		कुल					

तालुका आब्द		जिला गुलबर्गा			राज्य कर्नाटक		
अ. क.	गांव का नाम	सर्वे नं	हिस्सा नं	गट नं	क्षेत्र		
1	2	3	4	5	हेक्टेर	आर	सेंटीआर
	सावळेशवर नीरतर	44	A		0	27	40
		44	C		0	28	50
		रास्ता, सर्वे नं 44 में			0	08	90
		45	C		1	03	30
		40			0	15	00
	कुल				4	39	00
4	खानापुर	75	2		0	12	00
		76	1		0	10	20
		77	A		0	15	90
		77	B		0	15	60
		84	1A		0	22	80
		रास्ता, सर्वे नं 84 और 83 के बीच में			0	03	80
		83	1		0	57	00
		83	2A		0	30	00
		83	2		0	33	30
		42	2		0	17	00
		गाड़ी रास्ता, सर्वे नं. 42 और 35 के बीच में			0	09	30
		37			0	33	00
		34	8		0	28	80
		34	6		0	30	90
		33	1A+C		0	26	00
		33	1B		0	21	80
		नाला, सर्वे नं. 33 और जीराहळी गांव के सीमा के बीच में			0	09	40
	कुल				3	76	80
5	हेबळी	51	1		0	12	60
		50	2		0	67	20
		नाला, सर्वे नं. 50 और 45 के बीच में			0	12	80
		48	1		0	21	60
		47	2A		0	16	20
		47	2B		0	16	80
		43	A		0	11	40
		43	B		0	12	00
		43	C		0	28	80
		50	3		0	15	90
		50	4		0	10	40
		40	B		0	79	20
	कुल				3	04	90
6	अब्द	रास्ता, सर्वे नं. 443 और 353 के बीच में			0	07	00
		353	2/1		0	60	80
		353	2/2		0	30	00
		352	1B		0	60	30
		357			0	80	00
		357	2/4		0	18	90

तालुका आबंद			जिला गुलबर्गा		राज्य कर्नाटक		
अ. क्र.	गांव का नाम	सर्वे नं.	हिस्सा नं.	गट नं.	क्षेत्र		
1	2	3	4	5	हेक्टेर	आर	सेंटीआर
	आबंद नीरतर	357	2/5		0	33	10
		366	5		0	23	40
		359	2B		0	08	70
		360	2		0	32	10
	गाडी रास्ता, सर्वे नं. 362 और 239 के बीच में				0	07	30
		236			0	39	60
	रास्ता, सर्वे नं. 236 में				0	05	60
		254	A		0	86	20
	रास्ता, सर्वे नं. 254, 255 और 236 के बीच में				0	09	40
		260	1A		0	24	00
		260	2C		0	24	00
		260	F		0	07	00
		260	2		0	04	10
		266	1B		0	96	00
		269			0	54	20
	रास्ता, सर्वे नं. 269, 265 और 236 के बीच में				0	08	40
		177	2		0	71	40
	कुल				7	91	50
7	किष्णीसुल्तान	70	15		0	03	40
		70	16A		0	05	80
		70	16B		0	08	00
		70	16C		0	10	30
		69	8		0	15	00
		69	10		0	15	00
	कुल				0	57	50
8	होन्डळी	रास्ता, सर्वे नं. 87 और किष्णीसुल्तान गांव के सीमा के बीच में			0	02	90
		1	A		0	11	10
		1	B		0	49	20
		7	1		0	57	90
		10	1		0	70	40
		10	2		0	72	00
	कुल				2	10	50
9	तडकल	1128	A		0	34	80
		1127			0	19	80
	रास्ता, सर्वे नं. 1127 और 1126 के बीच में				0	10	80
	नाला, सर्वे नं. 1124 और 1110 के बीच में				0	08	30
		1095			0	53	70
		1092	B		0	24	90
		1083	A		0	36	40
		1083	B		0	12	70

तालुका आबंद			जिला गुलबर्गा		राज्य कर्नाटक		
अ. क.	गांव का नाम	सर्वे नं.	हिस्सा नं.	पट नं.	क्षेत्र		
1	2	3	4	5	हेक्टर	अर	सेंटीअर
	तडकल नीरतर	1083	C		0	26	50
		1061	B		0	01	00
	गाडी रास्ता, सर्वे नं. 1064 और 1058 के बीच में				0	11	00
		1059			0	00	80
		1058			0	22	30
		1056	A		0	46	50
		1056	B		0	34	80
		934			1	77	40
		968	A		0	59	50
		968	C		0	01	70
	रास्ता, सर्वे नं. 956 और 968 के बीच में				0	07	50
		967	1A		0	00	60
		953	C		0	75	60
		952	C		0	08	30
		952	F		0	31	80
		901			0	04	00
		902			0	09	20
		903			0	10	20
		884			0	11	80
		871			0	17	20
		867	A1		0	33	60
		867	A2		0	27	70
		867	B1		0	10	50
		917			0	34	80
	रास्ता, सर्वे नं. 803 और 917 के बीच में				0	10	70
		798			0	56	40
		797			0	14	10
	रास्ता, सर्वे नं. 790, 797 और 791 के बीच में				0	03	60
		771			0	49	80
		768	B1		0	35	40
		768	C		0	30	90
		735			0	37	80
		720			0	58	20
	कुल				11	62	60
10	नागलगांव	13	1		0	36	70
		13	2/2		0	00	70
	कुल				0	37	40
11	सनगुंदा	56	A		0	56	20
		56	D		0	12	30
		57	1		0	56	80
	58 (सरकार और इतर)		1A, 1J		0	71	00
	रास्ता, सर्वे नं. 78 और 79 के बीच में				0	06	20

मीटर

तालुका आबंद			जिला गुलबर्गा		राज्य कर्नाटक		
अ. क्र.	गांव का नाम	सर्वे नं.	हिस्सा नं.	गट नं.	क्षेत्र		
1	2	3	4	5	हेक्टर	आर	सेंटीआर
	सनगुंदा नीरतर	78			0	46	80
		रास्ता, सर्वे नं. 83 में			0	03	70
		85	3		0	56	10
		6	3		0	17	20
		7	1		0	16	20
		7	3		0	13	00
		7	4		0	12	60
		18	1A		0	07	80
		18	1C		0	91	50
		18	1D		0	43	70
		18	1F		0	66	10
		नदी सर्वे नं. 18/1 और 18/2 के बीच में			0	09	10
		182			0	16	50
	कुल				5	93	70
12	सदकगी	9	4		0	56	30
		9	2		1	08	80
		11	1		0	65	40
		11	2		0	63	60
	कुल				2	94	10
13	बेळमगी	191			0	53	40
		188	1A		0	19	40
		188	5		0	38	70
		185	2		0	66	90
		175	3		0	11	00
		175	4		0	25	20
	कुल				2	14	60
14	वि.के.सलगर	323	1		0	51	90
		399			0	73	30
		312	A		0	36	60
		312	B		0	90	60
		रास्ता, सर्वे नं. 293 और 342 के बीच में			0	10	00
		293	A		0	70	20
		290	1B		0	26	30
		290	1C		0	33	90
		290	1D		0	57	20
		286	1		1	09	80
		286	2		0	03	00
		गाड़ी रास्ता, सर्वे नं. 286 और 65 के बीच में			0	05	90
		रास्ता, सर्वे नं. 90 और 69 के बीच में			0	06	20
		91	1+2		0	28	40
		93 (सरकार और इतर)			0	78	00
		135	1		0	00	80
		135	2		0	95	00
	कुल				7	77	10

तालुका आबंद			जिला गुलबर्गा		राज्य कर्नाटक		
अ. क.	गांव का नाम	सर्वे नं.	हिस्सा नं.	पट नं.	क्षेत्र		
1	2	3	4	5	हेक्टेर	आर	सेंटीआर
15	लेगटी	73	4		0	18	20
		73	3		0	17	30
		73	5		0	08	50
		रास्ता, सर्वे नं. 73 और 72 के बीच में			0	06	90
		72	1		0	46	00
		62			0	68	00
		60			0	02	70
		41	1		0	59	30
		41	3		0	09	00
		41	4		0	42	40
		42	4		0	29	10
		46	3		0	08	20
		नदी सर्वे नं. 46 और 31 के बीच में			0	09	50
		31	3		0	34	80
		32			0	70	80
		33	B		0	20	10
		33	C		0	42	90
		34			0	33	90
		35			0	02	50
		24			0	02	70
	कुल				5	32	80
16	लाडमोगळी	18			0	57	60
		25	B		0	44	40
		25	C		0	90	00
		27	1		0	34	20
		27	2		0	28	40
	कुल				2	54	60

[फा. सं. एल.-14014/16/02-जी.पो.]

स्वामी सिंह, निदेशक

New Delhi, the 5th February, 2003

S. O. 474.— Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas, number S.O. 959 dated the 13th March 2002 read with number S.O. 3068, and number S.O. 3069 both dated the 23rd September 2002 issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962) (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying pipeline for transport of natural gas from, the exploration blocks in the Northern/Southern Offshore of Goa and Structures in Andhra Pradesh of M/s Reliance Industries Limited, the promoter company of M/s Gas Transportation and Infrastructure Company Limited to the various consumers of District Gulbarga in the State of Karnataka by M/s Gas Transportation and Infrastructure Company Limited;

And whereas the copies of the said Gazette notification were made available to the public from 2nd November 2002;

And whereas the Competent Authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government after considering the said report and on being satisfied that the said land is required for laying pipeline, has decided to acquire the right of user therein;

And whereas the Competent Authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired, for laying the pipeline.;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest, on the date of publication of the declaration, in Gas Transportation and Infrastructure Company Limited, free from all encumbrances.

SCHEDULE - 34

Taluka - Aland

District : Gulbarga

State : Karnataka

Sl. No.	Village Name	Survey No.	Hissa No.	Gat No.	Area		
					Hectare	Are	Centiare
1	2	3	4	5	6	7	8
1	Kamnhalli	42	2		0	09	90
		42	9/1		0	21	30
		31	2A		0	17	10
		31	2B		0	23	60
		69	2		0	05	00
		Road between Sy. No. 69/2 & 69/1			0	04	40
		68	1		0	29	30
		68	2		0	15	50
		7	A		0	40	20
		7	C		0	17	30
		7	E		0	16	80
		7	F		0	13	20
		7	G		0	11	70
		6	1/1		0	36	60
		9	3		0	13	80
		9	7		0	01	10
		9	6		0	07	60
		9	10		0	46	80
		10	3		1	02	00
	Total: -				4	33	20
2	Sakarga	55	2A		0	59	40
		56	1/B		0	34	20
		56	1/D		0	46	80
		71			0	27	40
		79	3		0	37	20
		9	2C		0	40	80
		9	2B		0	16	60
		Road in Sy. No. 9/2			0	06	20
		19			0	18	90
	Total: -				2	87	50
3	Sawaleswar	184	11		0	09	20
		184	14		0	11	40
		184	12		0	50	50
		Nala between Sy. No. 184 & 175			0	10	30
		175	3		0	04	60
		174	1A		0	17	30
		174	1B		0	27	90
		3	2B		0	25	70
		16	2		0	31	80
		23	6		0	49	50
		23	7		0	05	60
		Nala between Sy. No. 20 & 23			0	08	00
		Road between Sy. No. 24 & 43			0	04	10

Taluka - Aland		District : Gulbarga			State : Karnataka		
Sl. No.	Village Name	Survey No.	Hissa No.	Gat No.	Area		
					Hectare	Are	Centiare
1	2	3	4	5	6	7	8
3	Sawaleswar Contd	44	A		0	27	40
		44	C		0	28	50
		Road (SH - 10) in Sy. No. 44			0	08	90
		45	C		1	03	30
		40			0	15	00
Total: -					4	39	00
4	Khanapur	75	2		0	12	00
		76	1		0	10	20
		77	A		0	15	90
		77	B		0	15	60
		84	1A		0	22	80
		Road between Sy. No. 84 & 83			0	03	80
		83	1		0	57	00
		83	2A		0	30	00
		83	2		0	33	30
		42	2		0	17	00
		Cart Track between Sy. No. 42 & 35			0	09	30
		37			0	33	00
		34	8		0	28	80
		34	6		0	30	90
		33	1A+C		0	26	00
		33	1B		0	21	80
		Nala in Sy. No. 33 & Jeerahalli boundry			0	09	40
Total: -					3	76	80
5	Hebhalli	51	1		0	12	60
		50	2		0	67	20
		Nala between Sy. No. 50 & 45			0	12	80
		48	1		0	21	60
		47	2A		0	16	20
		47	2B		0	16	80
		43	A		0	11	40
		43	B		0	12	00
		43	C		0	28	80
		50	3		0	15	90
		50	4		0	10	40
		40	B		0	79	20
Total:-					3	04	90
6	Aland	Road between Sy. No. 443 & 353			0	07	00
		353	2/1		0	60	80
		353	2/2		0	30	00
		352	1B		0	60	30
		357			0	80	00

Taluka - Aland		District : Gulbarga			State : Karnataka		
Sl. No.	Village Name	Survey No.	Hissa No.	Gat No.	Area		
					Hectare	Are	Centiare
1	2	3	4	5	6	7	8
	Aland Contd	357	2/4		0	18	90
		357	2/5		0	33	10
		366	5		0	23	40
		359	2B		0	08	70
		360	2		0	32	10
	Cart Track in between Sy. No. 362 & 239				0	07	30
		236			0	39	60
	Road in Sy. No. 236				0	05	60
		254	A		0	86	20
	Road between Sy. No. 254, 255 & 236				0	09	40
		260	1A		0	24	00
		260	2C		0	24	00
		260	F		0	07	00
		260	2		0	04	10
		266	1B		0	96	00
		269			0	54	20
	SH - 32 between Sy. No. 269 & 265				0	08	40
		177	2		0	71	40
	Total:-				7	91	50
7	Kinnisultan	70	15		0	03	40
		70	16A		0	05	80
		70	16B		0	08	00
		70	16C		0	10	30
		69	8		0	15	00
		69	10		0	15	00
	Total:-				0	57	50
8	Honahalli	Road between Sy. No. 87 and Kinnisultan boundry			0	02	90
		1	A		0	11	10
		1	B		0	49	20
		7	1		0	57	90
		10	1		0	17	40
		10	2		0	72	00
	Total:-				2	10	50
9	Tadakal	1128	A		0	34	80
		1127			0	19	80
	Road between Sy. No. 1127 & 1126				0	10	80
	Nala between 1124 & 1110				0	08	30
		1095			0	53	70
		1092	B		0	24	90
		1083	A		0	36	40
		1083	B		0	12	70
		1083	C		0	26	50

Taluka - Aland		District : Gulbarga		State : Karnataka			
Sl. No.	Village Name	Survey No.	Hissa No.	Gat No.	Area		
1	2	3	4	5	Hectare	Are	Centiare
	Tadakai Contd	1061	B		0	01	00
	Cart Track between Sy. No. 1064 & 1058				0	11	00
		1059			0	00	80
		1058			0	22	30
		1056	A		0	46	50
		1056	B		0	34	80
		994			1	77	40
		968	A		0	59	50
		968	C		0	01	70
	Road between Sy. No. 956 & 968				0	07	50
		967	1A		0	00	60
		953	C		0	75	60
		952	C		0	08	30
		952	F		0	31	80
		901			0	04	00
		902			0	09	20
		903			0	10	20
		884			0	11	80
		871			0	17	20
		867	A1		0	33	60
		867	A2		0	27	70
		867	B1		0	10	50
		917			0	34	80
	Road between Sy. No. 803 & 917				0	10	70
		798			0	56	40
		797			0	14	10
	Road between Sy. No. 790, 797 & 791				0	03	60
		771			0	49	80
		768	B1		0	35	40
		768	C		0	30	90
		735			0	37	80
		720			0	58	20
	Total: -				11	62	60
10	Nagalgaon	13	1		0	36	70
		13	2/2		0	00	70
	Total: -				0	37	40
11	Sangunda	56	A		0	56	20
		56	D		0	12	30
		57	1		0	56	80
	58/1A to 58/1J Govt Land				0	71	00
	Road between Sy. No. 78 & 79				0	06	20
		78			0	46	80
	Road in Sy. No. 83				0	03	70

Taluka - Aland

District : Gulbarga

State : Karnataka

Sl. No.	Village Name	Survey No.	Hissa No.	Gat No.	Area		
					Hectare	Are	Centiare
1	2	3	4	5	6	7	8
	Sangunda Contd	85	3		0	56	10
		6	3		0	17	20
		7	1		0	16	20
		7	3		0	13	00
		7	4		0	12	60
		18	1A		0	07	80
		18	1C		0	91	50
		18	1D		0	43	70
		18	1F		0	66	10
	River in Sy. No. 18/1 & 18/2				0	16	50
	Total: -				5	93	70
12	Savalagi	9	4		0	56	30
		9	2		1	08	80
		11	1		0	65	40
		11	2		0	63	60
	Total: -				2	94	10
13	Belambgi	191			0	53	40
		188	1A		0	19	40
		188	5		0	38	70
		185	2		0	66	90
		175	3		0	11	00
		175	4		0	25	20
	Total: -				2	14	60
14	V. K. Salgar	323	1		0	51	90
		399			0	73	30
		312	A		0	36	60
		312	B		0	90	60
	Road between Sy. No. 293 & 342				0	10	00
		293	A		0	70	20
		290	1B		0	26	30
		290	1C		0	33	90
		290	1D		0	57	20
		286	1		1	09	80
		286	2		0	03	00
	Cart Track between Sy. No. 286 & 65				0	05	90
	SH - 32 between Sy. No. 90 & 69				0	06	20
		91	1+2		0	28	40
	93 Govt Land				0	78	00
		135	1		0	00	80
		135	2		0	95	00
	Total: -				7	77	10

Taluka - Aland		District : Gulbarga			State : Karnataka		
Sl. No.	Village Name	Survey No.	Hissa No.	Gat No.	Area		
					Hectare	Are	Centiare
1	2	3	4	5	6	7	8
15	Lengti	73	4		0	18	20
		73	3		0	17	30
		73	5		0	08	50
		Road between Sy. No. 73 & 72			0	06	90
		72	1		0	46	00
		62			0	68	00
		60			0	02	70
		41	1		0	59	30
		41	3		0	09	00
		41	4		0	42	40
		42	4		0	29	10
		46	3		0	08	20
		River between Sy. No. 46 & 31			0	09	50
		31	3		0	34	80
		32			0	70	80
		33	B		0	20	10
		33	C		0	42	90
		34			0	33	90
		35			0	02	50
		24			0	02	70
Total: -					5	32	80
16	Ladmoghali	18			0	57	60
		25	B		0	44	40
		25	C		0	90	00
		27	1		0	34	20
		27	2		0	28	40
Total: -					2	54	60

[No. L-14014/16/02-G.P.]
SWAMY SINGH, Director

नई दिल्ली, 6 फरवरी, 2003

का. आ. 475.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii) तारीख 13 जुलाई, 2002 में पृष्ठ 6940 से 6953 पर प्रकाशित भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 2298 तारीख 12 जुलाई 2002, में निम्नलिखित संशोधन करती है, अर्थात् :-

उक्त अधिसूचना की अनुसूची में :-

- (क) पृष्ठ 6941 पर, स्तंभ 1 में गाँव "बीरमसर" के सामने
- (i) स्तंभ 2 के सर्वेक्षण संख्या "112", के सामने स्तंभ 4 में "0-34", क्षेत्र के स्थान पर "0-53", क्षेत्र रखा जाएगा ;
 - (ii) स्तंभ 2 के सर्वेक्षण संख्या "111", के सामने स्तंभ 4 में "0-39", क्षेत्र के स्थान पर "0-43", क्षेत्र रखा जाएगा ;
 - (iii) पृष्ठ 6942 पर, स्तंभ 1 के गाँव "बीरमसर" के सामने स्तंभ 2 के सर्वेक्षण संख्या "76", के सामने स्तंभ 4 में "0-47", क्षेत्र के स्थान पर "0-51", क्षेत्र रखा जाएगा ;

(ख)

- पृष्ठ 6943 पर, स्तंभ 1 में गाँव "धुपालिया" के सामने
(i) स्तंभ 2 के सर्वेक्षण संख्या "111", के सामने स्तंभ 4 में "0-22", क्षेत्र के स्थान पर "0-34", क्षेत्र रखा जाएगा ;

[फा. सं. आर-31015/27/01-ओ.आर.-II]

हरीश कुमार, अवर सचिव

अवर सचिव, आन्तरिक मामलों

New Delhi, the 6th February, 2003

S.O. 475.— In exercise of the powers conferred by sub-section (1) of section 6 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O 2298, dated the 12th July, 2002, published at pages 6953 to 6966, in Part II, section 3, sub-section (ii) of the Gazette of India, dated the 13th July, 2002, namely:-

In Schedule to the said notification:-

- (A) at page 6954, against village "Biramsar", in column 1,
(i) In Survey no. "112", in column 2, for the area "0-34", in column 4, the area "0-53", shall be substituted;
(ii) In Survey no. "111", in column 2, for the area "0-39", in column 4, the area "0-43", shall be substituted;
(iii) at page 6955, against village "Biramsar", in column 1,
In Survey no. "76", in column 2, for the area "0-47", in column 4, the area "0-51", shall be substituted;
(B) at page 6956, against village "Dhupalia", in column 1,
(i) In Survey no. "111", in column 2, for the area "0-22", in column 4, the area "0-34", shall be substituted;

[No. R-31015/27/01-O.R.-II]
HARISH KUMAR, Under Secy.

नई दिल्ली, 6 फरवरी, 2003

का. आ. 476.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र तारीख 5 अक्टूबर 2002 में प्रकाशित भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 3147 तारीख 30 सितम्बर 2002 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में गुरु गोबिन्द सिंह रिफाइनरीज लिमिटेड (हिन्दुस्तान पेट्रोलियम कॉरपोरेशन लिमिटेड की समनुषंगी) द्वारा मुन्द्रा-भटिंडा अपरिष्कृत तेल पाइपलाइन के माध्यम से गुजरात राज्य में मुन्द्रा पत्तन स्थित अपरिष्कृत तेल संस्थापन (सी.ओ. टी.) से पंजाब राज्य में भटिंडा तक पेट्रोलियम उत्पादों के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी ;

और उक्त अधिसूचना की प्रतियाँ जनता को तारीख 09 नवम्बर 2002 को उपलब्ध करा दी गई थीं ;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है ;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पाइपलाइन बिछाने के लिए उक्त भूमि में उपयोग का अधिकार, इस घोषणा के प्रकाशन की तारीख को, केन्द्रीय सरकार में निहित होने की बजाए सभी विल्लंगमों से मुक्त, गुरु गोबिन्द सिंह रिफाइनरीज लिमिटेड (हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड की समनुषंगी) में निहित होगा।

अनुसूची

तहसील : नोखा

जिला : बीकानेर

राज्य : राजस्थान

क. सं.	गाँव का नाम	खसरा	हिस्सा क्रमांक	ROU क्षेत्रफल.	
				हेक्टर	एयर
	1	2	3	4	
1	धूपालिया	110		0.	11

[फा. सं. आर-31015/27/01-ओ.आर-II]

हरीश कुमार, अवर सचिव

New Delhi, the 6th February, 2003

S. O. 476.— Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 3147, dated the 30th September, 2002, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Gazette of India, on the 5th October, 2002, the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transport of petroleum products from crude oil terminal (COT) at Mundra Port in the State of Gujarat to Bathinda in the State of Punjab through Mundra-Bathinda crude oil pipeline by Guru Gobind Singh Refineries Limited (a subsidiary of Hindustan Petroleum Corporation Limited);

And whereas, copies of the said Gazette notification were made available to the public on the 9th November, 2002;

And whereas, the competent authority has under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas, the Central Government, after considering the said report and on being satisfied that the said land is required for laying pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in the Guru Gobind Singh Refineries Limited (a subsidiary of Hindustan Petroleum Corporation Limited), free from all encumbrances.

SCHEDULE**Tehsil : Nokha****District : Bikaner****State : Rajasthan**

Sr. No.	Name of Village	Survey No.	Part if Any	ROU Area	
				Hect.	Are.
	1	2	3	4	
1	Dhupalia	110		0	11

[No. R-31015/27/01-O.R.-II]
HARISH KUMAR, Under Secy.

नई दिल्ली, 7 फरवरी, 2003

अधिसूचना

का. आ. 477.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं० का. आ. 3312 तारीख 6 दिसम्बर 2001, जो भारत के राजपत्र भाग-2, खंड 3, उपखण्ड (ii) में पृष्ठ 7300-7318 पर प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में गुरु गोबिन्द सिंह रिफाइनरी लिमिटेड (हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड की समनुषंगी) द्वारा मुन्द्रा-भटिन्डा अपरिष्कृत तेल पाइपलाइन के माध्यम से गुजरात राज्य में मुन्द्रा पत्तन स्थित अपरिष्कृत तेल संस्थापन (सी.ओ. टी.) से पंजाब राज्य में भटिन्डा तक पेट्रोलियम उत्पादों के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी ;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 22 जनवरी 2002 को उपलब्ध करा दी गई थी ;

और पाइपलाइन बिछाने के संबंध में जनता से प्राप्त आक्षेपों पर सक्षम प्राधिकारी द्वारा विचार कर लिया गया है और उन्हें अननुज्ञात कर दिया गया है ;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है ;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग का अधिकार अर्जित करने का विनिश्चय किया है ;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है ;

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पाइपलाइन बिछाने के लिए उक्त भूमि में उपयोग का अधिकार, इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए सभी विल्लंगमों से मुक्त, गुरु गोबिन्द सिंह रिफाइनरीज लिमिटेड (हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड की समनुषंगी) में निहित होगा।

अनुसूची

तहसील : लुनी

जिला:जोधपुर

राज्य:राजस्थान

क्रम सं.	गाँव का नाम	खसरा नं.	हिस्सा क्रमांक	ROU क्षेत्रफल	
				बिघा	बिस्वा
	1	2	3	4	
1	उत्तैसर	102		2	07
		78		2	12
		78	1	3	15
		78	2	2	02
		79		1	09
		79	1	0	01
		82		1	04
		82	1	2	08
		81		0	01
		83		1	17
		84		2	15
		85		1	01
		170	कार्ट ट्रैक सरकारी भूमि	0	03
		184		1	11
		173	2	1	11
		174		1	03
		174	1	0	17
		175	2	1	09
		175	3	1	09
		176		1	01
2	पिपरली	177		2	08
		178		3	17
		72		4	05
		30	नाला सरकारी भूमि	0	03
3	कागनाडा	28	1	3	12
		72		2	14
		72	1	1	10
		74		0	04
		73		1	12
		75		3	14
		76		0	06
		78		0	03
		77		2	03
		63	कार्ट ट्रैक सरकारी भूमि	0	03
		57		1	15

तहसील : लुनी

जिला:जोधपुर

राज्य:राजस्थान

क्रम सं.	गाँव का नाम	खसरा नं.	हिस्सा क्रमांक	ROU क्षेत्रफल	
				बिघा	बिस्वा
	1	2	3	4	
3	कागनाडा (जारी)	62	कार्ट ट्रैक सरकारी भूमि	0	04
		81	अस्फाल्टेड रोड सरकारी भूमि	0	03
		85		0	06
		86	रोड सरकारी भूमि	0	03
		88		5	05
		92		2	05
		92 1		1	14
		92 2		0	19
		97	मिन	1	05
		98		1	13
		99 1		0	07
		103		1	17
		102		0	06
		101 4		0	02
		107		2	06
		111 1		1	08
		111 2		1	13
		112		1	12
		112 1		1	08
		114		0	09
4	सुबदंड	114 2		1	00
		225		2	16
		228		2	03
		227		3	04
		175	कार्ट ट्रैक सरकारी भूमि	0	03
		172 1		1	09
5	सक धवा	39		4	13
		42	कार्ट ट्रैक सरकारी भूमि	1	07
		69		0	01
		37		2	02
		67		0	01
		36 2		1	18
		65		0	18
		64		1	15
		63 2		1	09
		63		0	11
		62		2	04

गहुसील : लुनी

जिला: जोधपुर

राज्य: राजस्थान

क्रम सं.	गाँव का नाम	खसरा नं.	हिस्सा क्रमांक	ROU क्षेत्रफल	
				बिघा	बिस्वा
	1	2	3	4	
5	चक धवा (जारी)	90	61	3	12
		60		1	02
		59		0	13
		58		0	01
6	सिनली	151		0	01
		150		0	17
		150	1	1	17
		148		2	14
		147		1	09
		147	1	1	06
		146		0	01
		145		0	16
		144		0	08
		144	1	0	17
		144	2	0	17
		141		0	14
		204	कार्ट ट्रैक सरकारी भूमि	0	03
		200		1	13
		201		0	02
		203		2	03
		203	1	2	03
		203	3	1	16
		209		0	01
		210	कार्ट ट्रैक सरकारी भूमि	0	08
		222	1	0	05
		211		0	08
		211	2	1	01
		212		0	17
		213		0	12
		213	1	1	11
		137	कार्ट ट्रैक सरकारी भूमि	0	03
		136		1	17
		135		2	01
		112	कार्ट ट्रैक सरकारी भूमि	0	02
		105		0	12
		105	1	0	13
		105	2	0	16
		103		0	01

तहसील : लूनी

जिला:जोधपुर

राज्य:राजस्थान

क्रम सं.	गाँव का नाम	खसरा नं.	हिस्सा क्रमांक	ROU क्षेत्रफल	
				बिघा	बिस्वा
	1	2	3	4	
6	सिनली (जारी)	104		1	06
		81		4	15
		81	26 ; रोड सरकारी भूमि	0	02
		92		1	09
		90		1	02
		94		1	00
		95		1	05
		96		1	05
7	धवा	1073		0	02
		1068		2	12
		1067		1	15
		1067	1	1	00
		1066		0	13
		1993	1065	1	01
		1065	1	0	10
		1994	1065	0	15
		1984	1022	1	09
		1021		1	16
		1020		0	15
		1019		0	16
		1018		0	10
		1017	1	0	19
		1016		1	09
8	गेलावास	118		4	03
		119	2	0	01
		116		2	03
		107		0	11
		113		4	06
		112	2	1	06
		126		5	10
		127		0	09
		104	स्टेट हाईवे.-28 सरकारी भूमि	0	08
		98		0	13
		97	2	1	00
		96		1	14
		88		1	13
		87		2	18
		86		0	14

तहसील : लुनी

जिला:जोधपुर

राज्य:राजस्थान

क्रम सं.	गाँव का नाम	खसरा नं.	हिस्सा क्रमांक	ROU क्षेत्रफल	
				बिघा	बिस्वा
	1	2	3	4	
8	गेलावास (जारी)	86	1	1	18
		60		1	03
		61		1	15
		61	1	1	09
		61	2	0	10
		64		1	14
		38		2	08
		65		0	11
		37		0	14
		37	1	1	08
		36		2	04
		35		0	13
		30	कार्ट ट्रैक सरकारी भूमि	0	07
		29		2	04
		31	नदी जोजरी सरकारी भूमि	0	04
		94	नदी जोजरी सरकारी भूमि	0	11
9	लूनावास खुर्द	105		1	01
		104		1	14
		106		1	12
		103		2	04
		102		1	02
		102	1	0	15
		101		0	05
		80	कार्ट ट्रैक सरकारी भूमि	0	07
		73		4	11
		77	2	0	13
		77		2	08
		45	कार्ट ट्रैक सरकारी भूमि	0	03
		36		4	14
		154	37	0	19
		167	37	1	01
		38		2	00
		32		2	01
		31		0	05
		29	कार्ट ट्रैक सरकारी भूमि	0	01
10	लूनावास चारणान	27		0	18
		37		0	12
		36	कार्ट ट्रैक सरकारी भूमि	0	02

तहसील : लूनी

जिला: जोधापुर

राज्य: राजस्थान

क्रम सं.	गाँव का नाम	प्रसरण नं.	हिस्सा क्रमांक	ROU क्षेत्रफल	
				बिघा	बिस्वा
	1	2	3	4	
10	लूनावास चारणान (जारी)	35		0	05
		8		1	14
		7		1	09
		6		0	01
		9		2	09
		16		2	15
		15		2	12
		14		1	09
		19		1	00
		21		3	07
11	खटावास	170	कार्ट ट्रैक सरकारी भूमि	0	04
		195		1	15
		197		4	06
		198	1	3	19
		199		0	01
		200		0	01
		208		0	12
		204		1	03
		207		0	11
		206		0	13
		150	कार्ट ट्रैक सरकारी भूमि	0	02
		73		2	09
		74		0	01
		70		0	05
		69		1	16
		66		1	16
		67		1	10
		61		2	14
		60		3	16
12	देवटा	263		0	07
		298		3	03
		299	कार्ट ट्रैक सरकारी भूमि	0	08
		336		3	14
		337		2	14
		334		1	03
		334	400	0	04
		332		0	19
		331		0	08

तहसील : लूनी

जिला: जोधपुर

राज्य: राजस्थान

क्रम सं.	गाँव का नाम	खसरा नं.	हिस्सा क्रमांक	ROU क्षेत्रफल	
				बिघा	बिस्वा
	1	2	3	4	
12	देवटा (जारी)	330		1	08
		329		0	02
		324		1	16
		325		1	19
		326		1	01
		318	कार्ट ट्रैक सरकारी भूमि	0	04
		317		0	01
		316		0	01
		315		0	15
		314		1	04
		306	कार्ट ट्रैक सरकारी भूमि	0	02
		304	398	0	03
		304		0	10
		302		2	00
		301		1	04
13	खुडाला	34		3	02
		33		1	05
		31		1	08
		9		0	12
		8		1	09
		7		2	11
		14		0	02
		6		2	17
		5		1	07
		4		1	02
		3		1	04
		2		0	01
		1		1	16
		361	कार्ट ट्रैक सरकारी भूमि	0	03
		241		0	10
		240		2	08
		244		0	01
		243		1	10
14	लुणावास खारा	1085		1	13
15	झवर	1534		1	18
		1533	कार्ट ट्रैक सरकारी भूमि	0	02
		1532		1	13
		1462		2	02

तहसील : लुनी

जिला:जोधपुर

राज्य:राजस्थान

क्रम सं.	गाँव का नाम	खसरा नं.	हिस्सा क्रमांक	ROU क्षेत्रफल	
				बिघा	बिस्वा
	1	2	3	4	
15	इवर (जारी)	1530		1	14
		1529		0	07
		1465		0	13
		1469		1	07
		1470		0	02
		1470 .1		1	11
		1471		1	16
		1477		2	00
		1478		1	04
		1479		1	09
		1480		0	04
		1449		0	12
		1448		0	14
		1448 1		0	17
		1484		1	06
		1485		1	01
		1488		1	01
		1489		2	04
		1490		1	04
		1491		1	10
		1438		0	11
		1437		1	05
		1426		0	07
		1427		1	10
		1419		1	11
		1420		0	19
		1422		0	06
		1421		1	00
		1402		1	05
		1401		1	16
		1372		0	18
		1371		1	11
		1370		1	15
		1369		0	02
		1368		2	15
		1367		2	05
		1364		0	02
		1425	कार्ट ट्रैक सरकारी भूमि	0	05

तहसील : लूनी

जिला: जोधपुर

राज्य: राजस्थान

क्रम सं.	गोंव का नाम	खसरा नं.	हिस्सा क्रमांक	ROU क्षेत्रफल	
				बिघा	बिस्वा
	1	2	3	4	
15	झंवर	1294		0	01
	(जारी)	1295		0	10
		1296		2	04
		1297		0	19
		1302	कार्ट ट्रैक सरकारी भूमि	0	02
		1305		1	09
		1306		0	07
		1307		2	18
		1156	आसफाल्टेड रोड सरकारी भूमि	0	04
		478		4	06
		476	आसफाल्टेड रोड सरकारी भूमि	0	02
		472		0	06
		471		1	12
		468	3	1	04
		467		3	11
		467	मि.	0	17
		467	1	0	01
		467	2	0	02
		467	3	0	01
		466		0	17
		326	कार्ट ट्रैक सरकारी भूमि	0	03
		240		1	05
		241		0	06
		258		0	05
		242		1	12
		244		1	14
		246		2	04
		248		0	13
		252		2	09
		251		1	08
		250		1	02
		249		1	12
		275	1	2	15
		279		4	10
		278		1	18
		280		1	03
		281		1	10
		281	1	0	10

तहसील : लुनी

जिला:जोधपुर

राज्य:राजस्थान

क्रम सं.	गाँव का नाम	खसरा नं.	हिस्सा क्रमांक	ROU क्षेत्रफल	
				बिघा	बिस्वा
	1	2	3	4	
15	झंवर	286		3	09
	(जारी)	283		0	19
		285	कार्ट ट्रैक सरकारी भूमि	0	03
		73	कार्ट ट्रैक सरकारी भूमि	0	02
		64		1	18
		1531		0	09

[फ़. सं. आर-31015/33/01-ओ.आर-II]

हरीश कुमार, अवर सचिव

New Delhi, the 7th February, 2003

S. O. 477.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 3312, dated the 6th December 2001, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act) and published at pages 7309 to 7318 in Part II, section 3, sub-section (ii) of the Gazette of India, dated the 8th December, 2001, the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of petroleum products from crude oil terminal at Mundra Port in the State of Gujarat to Bathinda in the State of Punjab, through Mundra-Bathinda crude oil pipeline by Guru Gobind Singh Refineries Limited (a subsidiary of Hindustan Petroleum Corporation Limited);

And whereas copies of the said Gazette notification were made available to the public on the 22nd January 2002;

And whereas the objections received from the public to the laying of the pipeline have been considered and disallowed by the competent authority;

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the land for laying the pipeline shall, instead of vesting in the Central Government, vest, on the date of publication of the declaration, in the Guru Gobind Singh Refineries Limited (a subsidiary of Hindustan Petroleum Corporation Limited), free from all encumbrances.

SCHEDULE

Tehsil : Luni

District : Jodhpur

State : Rajasthan

Sr. No.	Name of Village	Khasra No.	Part If Any	R.O.U. Area	
				Biga	Biswa
	1	2	3	4	
1	UTTESAR	102		2	07
		78		2	12
		78	1	3	15
		78	2	2	02
		79		1	09
		79	1	0	01
		82		1	04
		82	1	2	08
		81		0	01
		83		1	17
		84		2	15
		85		1	01
		170	Cart Track G.L.	0	03
		184		1	11
		173	2	1	11
		174		1	03
		174	1	0	17
		175	2	1	09
		175	3	1	09
		176		1	01
		177		2	08
		178		3	17
2	PIPARLI	72		4	05
		30	Nala G.L.	0	03
		28	1	3	12
3	KAGNADA	72		2	14
		72	1	1	10
		74		0	04
		73		1	12
		75		3	14
		76		0	06
		78		0	03
		77		2	03
		63	Cart Track G.L.	0	03
		57		1	15

Tehsil : Luni

District : Jodhpur

State : Rajasthan

Sr. No.	Name of Village	Khasra No.	Part If Any	R.O.U. Area	
				Biga	Biswa
	1	2	3	4	
3	KAGNADA (Contd.)	62	Cart Track G.L.	0	04
		81	Asphalted Road G.L.	0	03
		85		0	06
		86	Road G.L.	0	03
		88		5	05
		92		2	05
		92	1	1	14
		92	2	0	19
		97	Min	1	05
		98		1	13
		99	1	0	07
		103		1	17
		102		0	06
		101	4	0	02
		107		2	06
		111	1	1	08
		111	2	1	13
		112		1	12
		112	1	1	08
		114		0	09
4	SUBDAND	114	2	1	00
		225		2	16
		228		2	03
		227		3	04
		175	Cart Track G.L.	0	03
5	CHAK DHAWA	172	1	1	09
		39		4	13
		42	Cart Track G.L.	1	07
		69		0	01
		37		2	02
		67		0	01
		36	2	1	18
		65		0	18
		64		1	15
		63	2	1	09
		63		0	11
		62		2	04

Tehsil : Luni

District : Jodhpur

State : Rajasthan

Sr. No.	Name of Village	Khasra No.	Part If Any	R.O.U. Area	
				Biga	Biswa
	1	2	3	4	
5	CHAKDHAWA (Contd.)	90	61	3	12
		60		1	02
		59		0	13
		58		0	01
6	SINLI	151		0	01
		150		0	17
		150	1	1	17
		148		2	14
		147		1	09
		147	1	1	06
		146		0	01
		145		0	16
		144		0	08
		144	1	0	17
		144	2	0	17
		141		0	14
		204	Cart Track G.L.	0	03
		200		1	13
		201		0	02
		203		2	03
		203	1	2	03
		203	3	1	16
		209		0	01
		210	Cart Track G.L.	0	08
		222	1	0	05
		211		0	08
		211	2	1	01
		212		0	17
		213		0	12
		213	1	1	11
		137	Cart Track G.L.	0	03
		136		1	17
		135		2	01
		112	Cart Track G.L.	0	02
		105		0	12
		105	1	0	13
		105	2	0	16
		103		0	01

Tehsil : Luni

District : Jodhpur

State : Rajasthan

Sr. No.	Name of Village	Khasra No.	Part If Any	R.O.U. Area	
				Biga	Biswa
	1	2	3	4	
6	SINLI (Contd.)	104		1	06
		81		4	15
		81	26 ; Road G.L.	0	02
		92		1	09
		90		1	02
		94		1	00
		95		1	05
		96		1	05
7	DHAWA	1073		0	02
		1068		2	12
		1067		1	15
		1067	1	1	00
		1066		0	13
		1993	1065	1	01
		1065	1	0	10
		1994	1065	0	15
		1984	1022	1	09
		1021		1	16
		1020		0	15
		1019		0	16
		1018		0	10
		1017	1	0	19
		1016		1	09
8	GELAWAS	118		4	03
		119	2	0	01
		116		2	03
		107		0	11
		113		4	06
		112	2	1	06
		126		5	10
		127		0	09
		104	S.H.-28 G.L.	0	08
		98		0	13
		97	2	1	00
		96		1	14
		88		1	13
		87		2	18
		86		0	14

Tehsil : Luni

District : Jodhpur

State : Rajasthan

Sr. No.	Name of Village	Khasra No.	Part If Any	R.O.U. Area	
				Biga	Biswa
	1	2	3	4	
8	GELAWAS (Contd.)	86	1	1	18
		60		1	03
		61		1	15
		61	1	1	09
		61	2	0	10
		64		1	14
		38		2	08
		65		0	11
		37		0	14
		37	1	1	08
		36		2	04
		35		0	13
		30	Cart Track G.L.	0	07
		29		2	04
		31	River - Jojri G.L.	0	04
		94	River - Jojri G.L.	0	11
		105		1	01
		104		1	14
		106		1	12
		103		2	04
9	LUNAWAS KHURD	102		1	02
		102	1	0	15
		101		0	05
		80	Cart Track G.L.	0	07
		73		4	11
		77	2	0	13
		77		2	08
		45	Cart Track G.L.	0	03
		36		4	14
		154	37	0	19
		167	37	1	01
		38		2	00
		32		2	01
		31		0	05
		29	Cart Track G.L.	0	01
		27		0	18
10	LUNAWAS CHARNAN	37		0	12
		36	Cart Track G.L.	0	02

Tehsil : Luni

District : Jodhpur

State : Rajasthan

Sr. No.	Name of Village	Khasra No.	Part If Any	R.O.U. Area	
				Biga	Biswa
	1	2	3	4	
10	LUNAWAS CHARNAN (Contd.)	35		0	05
		8		1	14
		7		1	09
		6		0	01
		9		2	09
		16		0	15
		15		2	12
		14		1	09
		19		1	00
		21		3	07
11	KHATAWAS	170	Cart Track G.L.	0	04
		195		1	15
		197		4	06
		198	1	3	19
		199		0	01
		200		0	01
		208		0	12
		204		1	03
		207		0	11
		206		0	13
		150	Cart Track G.L.	0	02
		73		2	09
		74		0	01
		70		0	05
		69		1	16
		66		1	16
		67		1	10
		61		2	14
		60		3	16
12	BEVTA	263		0	07
		298		3	03
		299	Cart Track G.L.	0	08
		336		3	14
		337		2	14
		334		1	03
		334	400	0	04
		332		0	19
		331		0	08

Tehsil : Luni

District : Jodhpur

State : Rajasthan

Sr. No.	Name of Village	Khasra No.	Part If Any	R.O.U. Area	
				Biga	Biswa
	1	2	3	4	
12	BEVTA (Contd.)	330		1	08
		329		0	02
		324		1	16
		325		1	19
		326		1	01
		318	Cart Track G.L.	0	04
		317		0	01
		316		0	01
		315		0	15
		314		1	04
		306	Cart Track G.L.	0	02
		304	398	0	03
		304		0	10
		302		2	00
		301		1	04
13	KHUDALA	34		3	02
		33		1	05
		31		1	08
		9		0	12
		8		1	09
		7		2	11
		14		0	02
		6		2	17
		5		1	07
		4		1	02
		3		1	04
		2		0	01
		1		1	16
		361	Cart Track G.L.	0	03
		241		0	10
		240		2	08
		244		0	01
		243		1	10
14	LUNAWAS KHARA	1085		1	13
15	JHANWAR	1534		1	18
		1533	Cart Track G.L.	0	02
		1532		1	13
		1462		2	02

Tehsil : Luni

District : Jodhpur

State : Rajasthan

Sr. No.	Name of Village	Khasra No.	Part If Any	R.O.U. Area	
				Biga	Biswa
	1	2	3	4	
15	JHANWAR	1530		1	14
	(Contd.)	1529		0	07
		1465		0	13
		1469		1	07
		1470		0	02
		1470	1	1	11
		1471		1	16
		1477		2	00
		1478		1	04
		1479		1	09
		1430		0	04
		1449		0	12
		1448		0	14
		1448	1	0	17
		1484		1	06
		1485		1	01
		1488		1	01
		1489		2	04
		1490		1	04
		1491		1	10
		1438		0	11
		1437		1	05
		1426		0	07
		1427		1	10
		1419		1	11
		1420		0	19
		1422		0	06
		1421		1	00
		1402		1	05
		1401		1	16
		1372		0	18
		1371		1	11
		1370		1	15
		1369		0	02
		1368		2	15
		1367		2	05
		1364		0	02
		1425	Cart Track G.L.	0	05

Tehsil : Luni

District : Jodhpur

State : Rajasthan

Sr. No.	Name of Village	Khasra No.	Part If Any	R.O.U. Area	
				Biga	Biswa
	1	2	3	4	
15	JHANWAR (Contd.)	1294		0	01
		1295		0	10
		1296		2	04
		1297		0	19
		1302	Cart Track 'G.L.	0	02
		1305		1	09
		1306		0	07
		1307		2	18
		1156	Asphalted Road G.L.	0	04
		478		4	06
		476	Asphalted Road G.L.	0	02
		472		0	06
		471		1	12
		468	3	1	04
		467		3	11
		467	Min	0	17
		467	1	0	01
		467	2	0	02
		467	3	0	01
		466		0	17
		326	Cart Track G.L.	0	03
		240		1	05
		241		0	06
		258		0	05
		242		1	12
		244		1	14
		246		2	04
		248		0	13
		252		2	09
		251		1	08
		250		1	02
		249		1	12
		275		2	15
		279		4	10
		278		1	18
		280		1	03
		281		1	10
		281		0	10

Tehsil : Luni

District : Jodhpur

State : Rajasthan

Sr. No.	Name of Village	Khasra No.	Part If Any	R.O.U. Area	
				Biga	Biswa
	1	2	3	4	
15	JHANWAR	286		3	09
	(Contd.)	283		0	19
		285	Cart Track G.L.	0	03
		73	Cart Track G.L.	0	02
		64		1	18
		1531		0	09

[No. R-31015/33/01-O.R.-II]
HARISH KUMAR, Under Secy.

शहरी विकास और गरीबी उपशमन मंत्रालय
(दिल्ली प्रभाग)

नई दिल्ली, 31 जनवरी, 2003

का. आ. 478.—दिल्ली नगर कला आयोग अधिनियम, 1973 (1974 का सं. 4) खंड 4 और 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और भारत के राजपत्र असाधारण का.अ. 63(ई) के रूप में प्रकाशित दिनांक 24.1.2000 की अधिसूचना के अधिक्रमण में, केन्द्र सरकार एतद्वारा आदेश करती है कि श्री पी.के. होता, अपर सचिव(यूडी), भारत सरकार के अगले आदेश होने तक अपने दायित्वों के अतिरिक्त दिल्ली नगर कला आयोग के अध्यक्ष का कार्य भी संभालेंगे।

[फा. सं. ए-11013/4/84-डी.डी. V बी-1ए(खंड-II)]
परमजीत सिंह, डैस्क अधिकारी

**Ministry of Urban Development & Poverty Alleviation
(Delhi Division)**

New Delhi, the 31st January, 2003

S. O. 478.—In exercise of the powers conferred by Sections 4 and 5 of the Delhi Urban Art Commission Act, 1973 (1 of 1974) and in supersession of Notification dated 24.1.2000 published as S.O.63(E) in the Gazette of India Extraordinary, the Central Government hereby orders that Shri P.K.Hota, Addl.Secretary(UD), to the Govt. of India, would also officiate as Chairman of the Delhi Urban Art Commission, in addition to his own duties, till further orders.

[F.No.A-11013/4/84-DDVB-IA(Vol.II)]
PARAMJIT SINGH, Desk Officer

श्रम मंत्रालय

नई दिल्ली, 10 जनवरी, 2003

का. आ. 479.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एल. आई. सी. ऑफ इंडिया के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय पुणे के पंचाट (संदर्भ संख्या 272/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/01/03 को प्राप्त हुआ था।

[सं. एल-17012/35/97-आई. आर. (बी.-II)]

सी. गंगाधरण, अवर सचिव

MINISTRY OF LABOUR

New Delhi, the 10th January, 2003

S.O. 479.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 272/1998) of the Labour Court, Pune as shown in the annexure in the Industrial Dispute between the employers in relation to the management of LIC of India and their workman, which was received by the Central Government on 09-01-2003.

[No. L-17012/35/97-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

**BEFORE SHRI CHANDRA SHEKHAR INAMDAR,
PRESIDING OFFICER, THIRD LABOUR COURT,
PUNE**

Reference (IDA) No. 272/1998

BETWEEN:

The Sr. Divisional Manager,
Life Insurance Corporation of India,
University Road, Pune-411 005, Mah. First Party

AND

General Secretary,
Insurance Employees' Union,
29, Jeevan Chhaya Colony,
Paud Road, Pune-01 (Maharashtra) Second Party.
Subject :—In the matter of reinstatement with continuity
of service and full back wages
Coram :—Shri Chandrashekhar Inamdar.
Advocates :—Shri A.M. Pradhan for First Party.
Shri. S.S. Bomble-Deshmukh for S. Party.

FINAL AWARD

Pune, the 22nd November, 2002

1. This reference has been made by the Desk Officer, Govt. of India, Ministry of Labour, New Delhi under Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Sec. 10 of the I.D. Act. for adjudication of the dispute between the above referred parties over the following demands :

“Whether the action of the management of the LIC of India in compelling Smt. Champabai P. Shelke to retire w.e.f. 30-06-96 is justified? If not, to what relief the concerned the workman is entitled?”

2. The General Secretary of the second party Union has filed the statement of claim at Exh. 6. The second party is a registered union bearing No. PN-2177 has espoused the dispute of an individual nature. The second party union represents the majority of the workmen of the first party, Pune Division.

3. The second party union contended that Smt. Champabai P. Shelke was appointed as a part-time sweeper by first party, Pune Division Office at their Chinchward Branch Office, Chinchward Pune vide appointment order dated 29-9-1981, which order was modified later appointing her as a part-time sweeper for 3 hours vide order dated 22-4/23-5-1988. The first party called for the documents for Smt. Shelke regarding her date of birth in the form of an affidavit on stamp paper. Smt. Shelke executed an affidavit on 24-5-88 before Special Executive Magistrate being competent authority. Her date of birth recorded as 01-05-1950 in the said affidavit. She submitted an affidavit to the first party in May 1988. She has also submitted a certificate from Police Patil, Madne, Tal. Madha, Dist. Solapur being native place wherein the date of her birth is recorded as 01-05-1950. After receipt of these documents, the first party did not inform anything regarding her age. So, she orally enquired with Branch Officials about exact position. Then she was told that her date of birth would be recorded as per the documents submitted and nothing to worry.

4. After 7½ years in December 1995, the first party vide letter dated 05-12-1995 informed that her date of birth is recorded as 01-07-1936 on the basis of her age in ration card. Simultaneously on 06-12-1995, the first party issued her a notice of retirement from 30-06-1996, directing to enjoy the leave whatever in credit. So, she got shock and wrote a letter dt. 01-02-95 in Marathi to first party that their action being illegal and improper. they should not proceed to retire her from 30-06-96 as per notice.

5. The second party contends that the ration card does not disclose the date of birth but it is for approximate age to see whether the person is adult or not and to decide the units of ration card. So, the age in ration card cannot be considered as standard age proof and cannot be relied upon by the concerned authority as final and conclusive proof of age. The first party also does not accept and audit the ration card as a document for age proof. The action of the first party is to deprive the second party from claiming the permanency, with ill-motive. The union corresponded with the management on forced retirement of Smt. Shelke from 30-06-96. The first party accepted her date of birth as 01-05-1950 as per the documents called by them. But after 7 years, summarily changed their mind to fix date of birth as 01-07-1936 vide letter dated 05-12-1995. So, the second

party contends that Smt. Shelke deprived of her opportunity to present her say in the matter, amounts to violation of the principle of natural justice. It also amounts to wrongful retrenchment and termination under the grab of retirement. The second party, therefore, prayed that the order of retirement of Smt. Shelke be held as illegal termination and she may be reinstated with continuity of service and full back wages with all consequential benefits.

The second party has filed certain documents alongwith statement of claim as Annexure 'A' to 'F'.

6. The first party filed its written statement at Exh. 13 contending that the demands of second party is not true, not legal and not bonafide.

7. The first party asked Smt. Champabai P. Shelke to produce age certificate. Accordingly, the produced affidavit and certificate from Police Patil. She has concealed the fact that in 1996, she mentioned her age as 39 years in bio-data. The first party denies that she enquired with branch officials of the first Party who ensured her that her date of birth have admitted as stated by her. The first party contends that as Smt. Shelke submitted different dates of birth, the first party called for affidavit on stamp paper, marriage registration certificate or affidavit mentioning both names, family particulars with their age and school leaving certificate or Municipal birth certificate of her children. Accordingly, on 29-03-88, Smt. Shelke submitted her affidavit alongwith school leaving certificate of her daughter Mcera Shelke. As per affidavit, her date of birth is 01-05-1950 whereas she married with Pandurang Shelke on 20-5-1966 and as per school leaving certificate, the date of birth of her daughter is 10-06-1969. The name of husband of Smt. Champabai Shelke is mentioned as Shri. Lahu Shelke in school leaving certificate of her daughter, whereas in affidavit, it is Pandurang Shelke. So, the first party sought clarification vide letter dated 04-5-88. Smt. Shelke submitted an affidavit date 31-5-88 stating that Pandurang Shelke and Lahu Shelke are name of one and same person. No standard age proof was submitted by Smt. Shelke, as called, like identity card issued by Election Commissioner. However, she submitted a copy of ration card wherein her age is mentioned as 55 years in the year 1991. So, due to these discrepancies, the first party rightly concluded that Smt. Shelke is completing 60 years on 30-6-96 and termination her services by efflux of time. There is no illegal termination on the part of first party. The action taken is fully justified. Hence, the demands of the second party in respect of Mrs. Shelke under reference be rejected *in toto*.

8. The second party vide Exh. 14 gave a notice of documents supported by an affidavit at Exh. 15.

9. On the basis of rival pleadings of both the parties, my learned predecessor has framed the issues below Exh. 17 which I reply alongwith my findings and reasons thereon as follows :

Issues	Findings
(1) Whether the second party prove that :— Yes the first party had illegally terminated the service of Smt. Champabai Shelke by retiring her w.e.f. 30-6-96?	Yes
(2) Whether the first party justified its :— No action against second party?	No
(3) What relief the second Party : Reinstatement is entitles to get ?	Reinstatement with continuity of service and 50% back wages.
(4) What award?	As per order below.

REASONS

Issues No. 1 and 2.

10. The present reference is espoused by General Secretary Insurance Employees' Union, Pune Division, Paud Road, Pune, who is second party in respect of the workman Smt. Champabai Pandurang Shelke against the first party Life Insurance Corporation of India, Pune Divisional Office, Pune. Smt. Shelke was working as part-time Sweeper. The root cause of the dispute is a notice of retirement given by the Sr. Divisional Manager of Life Insurance Corporation of India, Pune Divisional Office, Pune on 16th December 1995. The notice has been given to the workman Smt. Champabai Pandurang Shelke. The subject matter of the notice is that from the records, it has been found that she will be completing 60 years age on 30-6-96. So she shall retire from the service of the first party Corporation w.e.f. 30-06-96.

11. Being aggrieved, Smt. Shelke made a representation in writing on 01-02-96 as Annexure 'E' to the statement of claim against the said retirement order, intimating the action of retirement is illegal, pre-mature. According to her, the date of birth is 01-05-1950. Considering this, she has not completed 60 years age on 30-6-96. So, the notice is not proper and needs to be cancelled. The first party did not respond to the said notice. Therefore, on 29-2-96, the second party union has given a letter to the Sr. Divisional Manager of the first party to withdraw the notice dated 06-12-95. The retirement based on the said notice is pre-mature, illegal and having element of the compulsion which will amount to wrong and illegal retirement of Smt. Champabai Pandurang Shelke. The said letter is at Annexure 'F' of the statement of claim.

12. The crux of the problem is that Smt. Shelke submitted her date of birth as 01-05-1950. She has filed affidavit and certificate of Police Pati of village Madne, Tal. Madha, Dist. Solapur certifying her date of birth as 01-05-1950. According to this, her age was 37 years as on 21-01-1987. The first party issued one letter dated 03-02-93

by which they have asked for compliance of the document like ration card and its xerox copy of the first and last page. The said letter asks to state the reason why she is not able to submit the school leaving certificate or the extract of the birth date maintained by the Nagar Palika. Then Smt. Shelke submitted xerox copy of the ration card wherein her age is shown as 55 years on 03-9-91. On the basis of this, the first party issued a notice of retirement dated 06-12-95 intending to retire her on 30-5-96.

13. The facts revealed from the records are outcome of the documentary evidence brought by the parties. The second party union while submitting the statement of claim below Exh. 6 has referred to the documents and filed it as the annexures. Further the second party union has given the notice below Exh. 14. It is on record that the first party below Exh. 20 has filed seven documents. Further the first party has filed below Exh. 30 on the basis of the submissions made by their witness about the production of the documents. So, they have filed in all seven documents.

14. The workman Smt. Shelke has led her oral evidence below Exh. 21. I have perused the same. The facts deposed by Smt. Shelke particularly are such as, she was employed as a Sweeper by the first party corporation from the year 1981. She was not given the written appointment order by the first party while taking her in the employment. She was employed as a part-time worker. She is an illiterate woman. In the year 1988, vide letter dated 23-5-88, the first party confirmed her as a part-time sweeper-cum-scavenger. The appointment order is at Exh. 22. The first party asked her to give documentary proof of her date of birth. So, she took certificate from the native place Police patil, made, Tal. Madha, Distt. Solapur and submitted it to the first party. The police patil has certified her age as 01-05-1950. The copy of the certificate dated 27-1-87 is at Exh. 20/3. The first party asked her to file affidavit. So, accordingly she has filed an affidavit on the stamp paper of rupees five. The original affidavit is in the custody of the first party. The contents of the affidavit are based on the version of her mother. Changabhale is her real brother whose name is appearing in the affidavit. Meera Sawant is her daughter. She also filed the age proof of her daughter by giving school leaving certificate is as Exh. 20/4. She stated that the name of her husband is Pandurang alias Lahu. In her affidavit, his name is appearing as Pandurang, whereas the name Lahu is appearing in the school leaving certificate, is one and same person. To this effect, she has filed an affidavit is at Exh. 20/2.

15. Smt. Shelke contended that on 05-12-95, the first party gave a letter stating that her date of birth is taken into record as 01-07-1936 on the basis of the ration card. She contended that the first party has unilaterally fixed the date and taken it on record. They did not give any opportunity of explanation to Smt. Shelke. So, she approached the second party union. Then the second party

union has filed complaint to the Government labour Office on the ground of pre-mature retirement on 30-06-96 on the basis of the notice dated 06-12-95. She is a member of the second party union from beginning. On the basis of notice dated 06-12-95, the first party made her to retire from service w.e.f. 30-6-96. After termination of services of Smt. Shelke, she tried to get an alternate employment but did not get it.

Smt. Shelke has been cross-examined by the first party. She confirmed that she personally went to the police patil. The police patil met but she could not tell the age of police patil. She admitted that she has not mentioned that facts mentioned in the affidavit are based on the version of her mother which are not reflected in the statement of claim. She denied the age mentioned in the ration card was informed by her to the rationing authority. She stated that the information was given by her neighbour to the rationing authority. The contradictions of not mentioning the date of birth of facts stated by Smt. Shelke in her affidavit based on her mother's version does not make any difference. In fact it is not contradictions considering that she is an illiterate lady. This contradiction does not make any difference that the birth date as 01-05-1950 stated by Smt. Shelke is not confronted. Therefore, there is no major contradictions affecting the facts stated by Smt. Shelke. I noticed that there is no question put or suggestions made by the first party as to the letter dated 05-12-95 by which they recorded the date of birth as 01-07-1936 in their records. There is also no question or suggestion put by the first party on the notice of retirement dated 06-12-95 given by the first party. Therefore, there is no contradiction as regards to the cause of dispute i.e. notice of termination by way of retirement given by the first party on 06-12-95. These facts have gone unchallenged.

16. Shri Vinayak Trimbak Gharpure, General Secretary of the second party union has entered into the witness box and led oral evidence below Exh. 23. After perusing the same, I noticed that the second party union has raised the dispute in respect of a workman Smt. Champabai Pandurang Shelke who is known by the witness from 1981. The witness is aware of the facts. He submitted that the first party corporation has given the authentication to the document as bonafide proof of the age, such as, school leaving certificate, affidavit etc. which are sufficient and relevant proof. Smt. Shelke was not possessing any of the above documents. In case of temporary appointment, the particulars of the candidate are not taken by the first party corporation. The part-time employees working with the first party corporation were not having their age proof. In the year 1995, the award was declared by the competent authority. So, the first party issued letter to the part-time employees to give age proof. In support of the age, the affidavit was required. Accordingly, Smt. Shelke has given the affidavit as age proof. The retirement age of the sweeper is 60 years. The first party retired Smt. Shelke at the age of 46 years on the basis of the affidavit. The first party has

given the notice of retirement six months earlier, to the actual date. The notice dated 06-12-95 given to the second party is pre-mature retirement notice. The second party union further approached by the workman Smt. Shelke, has given a letter to the first party which was not cognised. So, they have filed the dispute before the conciliation. Smt. Shelke is entitled for work.

This witness has been cross-examined by the first party. After perusing the same, I do not find any contradictions brought on record affecting the facts stated earlier.

17. The first party has led its evidence below Exh. 28. They have examined Mr. C.K. Ramashekharen, Manager-Legal and Housing Finance. I perused the oral evidence of this witness. He clearly admitted that he acquainted with the present case from the records. He admitted that the second party was part-time sweeper. The appointment order was given to the second party. The second party has not submitted the proof of her age. She submitted the age proof in 1988. She has produced her affidavit and her daughter's school leaving certificate and police patil's certificate. As the two names of her husband are noticed, so the first party asked for the clarification and then they have called for the ration card. On the basis of age shown in the ration card, they have given the notice to Smt. Shelke of her retirement.

During the course of cross-examination, the witness admitted that the first party Corporation has staff regulations, of 1960 regulating the service terms and conditions of its employees. He has admitted that the notice of document was given to the first party, wherein the service regulations was asked which was not produced by the first party. The witness stated that there are procedures prescribed for the verification of the age proof from the superiors. He admitted that Smt. Shelke has produced the bio-data at the very initial stage of recruitment to the first party. She has mentioned her age in the bio-data. The first party has not objected the age shown in the bio-data. The calling of age proof was introduced by framing the rules in the year 1970 by the parties. The first party corporation has asked Smt. Shelke to produce her age proof. The document at Exh. 20/5 is the letter sent by the first party on 04-5-88 of which copy is on record. Smt. Shelke has filed an affidavit on 29-3-88. On 29-5-88 Smt. Shelke by her affidavit explained the name of her husband is one and same. It is admitted that the first party never informed even in their letter dated 04-5-88 that they are not accepting the age mentioned in the affidavit filed by workman Smt. Shelke. The witness clearly admitted that they have asked to produce the ration card proof in the year 1993. It is admitted that in the year 1995, they have communicated to the workman Smt. Shelke that the document of ration card is treated as her age proof, vide letter dated 05-12-95 which is below list Exh. 20/6. It is admitted that there had been

communication between the Branch office and regional office regarding Smt. Shelke. The letter was not sent to the workman Smt. Shelke within reasonable time. It is admitted that after the notice of retirement, Smt. Shelke has given a letter that they are wrongly retiring her on wrong age.

18. After brooding over the entire evidence led by the parties, first I will deal with the problems stated above. The annexure 'B' letter dated 23-5-88 is the appointment order of the workman Smt. Champabai Pandurang Shelke issued by the Sr. Divisional Manager of the first party, wherein Smt. Shelke has been appointed as Sweeper-cum-Scavenger in the branch office No. 95-B, Pune on the wages of minimum scale. The service conditions of Smt. Shelke will be governing by the provisions of the award dated 17-04-1986 of the Industrial Tribunal in Reference (NTV) No. 01 of 1985. This has been informed by the first party in Clause No. 3. The Sr. Divisional Manager in Clause No. 3 of the appointment order clearly stated that the provisions of Life Insurance Corporation of India (Staff Regulations), 1960, shall not apply to her. While perusing the documents filed by the first party, I came across with the letter produced by the first party below Exh. 30/3 dated 01-03-1998 which is an internal correspondence is a reply to a letter of the Personnel and Industrial relation Section of 26-03-1988, wherein the Sr. Divisional Manager has clearly mentioned that the circular dated 23-09-87 Item I clearly states that "in case of an illiterate person, the declaration on stamp paper in the form of affidavit be obtained in support of the date of birth." The Sr. Divisional Manager in the said letter clearly admitted that Smt. Shelke has submitted her birth certificate given by the police patil, Madha, Distt. Solapur and asked to obtain certain documents from Smt. Shelke. This letter clearly shows the light on the fact that Smt. Shelke has submitted her birth certificate of police patil, Madha before 01-03-88. The copy of the said certificate is produced by the first party below Exh. 30/3. This clearly shows that the first party had knowledge that the date of birth Champabai daughter of Govind Rama Changabhale was certified as 01-05-1950 by the police patil G. B. Lankeshwar. This certificate was issued on 27-01-1987. The production of the document below Exh. 30 by the first party clearly shows that the first party has received this certificate after 27-01-1987 and they have kept quite till 01-03-1998. Further it is on record that Smt. Shelke submitted her affidavit on stamp paper of 28-03-1988 stating her age as 01-05-1950. She has clearly stated that she did not go to school. So, the date of birth is true and correct according to her knowledge. Her name before the marriage was Champabai Govind Changabhale and on 20-5-1965, she married with Pandurang Babu Shelke at Madha and her name has been changed as Champabai Pandurang Shelke. She has given the names of her family members. This affidavit was made before the Special Executive Magistrate. It is pertinent to note that the first party after getting this affidavit in support of the certificate given by the police patil has never raised any

objections regarding the date of birth of 01-05-1950 and not communicated to the second party immediately before recording the age in their records. Then on 31-5-1968, Smt. Shelke has filed an affidavit clarifying the difference of the name Pandurang and Lahu appearing in the school leaving certificate and affidavit of Meera. Thereafter, also the first party kept quite.

16. It is on record that someone, on 03-02-93, sent a letter to Smt. Shelke on behalf of the Sr. Divisional Manager and asked to comply of the production of the ration card and reasons for non-production of school leaving certificate and proof of the correction. The letter dated 05-12-1995 produced by the second party union at Annexure 'C' with the statement of claim clearly shows that till 05-12-1995, the first party and their officials have not recorded any date of birth of Smt. Shelke in their records. Firstly, on 05-12-95, the first party has intimated that they have received the ration card through Branch Office for admission of the age. So, they informed that the date of birth has been admitted as 01-07-1936 in her service record which is please be noted.

17. Now all these acts of the first party need to be scrutinised whether all these acts shows fairness, propriety of the notice of retirement dated 06-12-1995. It is to be noted that the same office, Sr. Divisional Manager of the first party has intimated the birth date recorded in the service record of Smt. Shelke as 01-07-1936 on 05-12-1995. On the very next day i.e. on 06-12-95, the same of officer Sr. Divisional Manager has given the notice of retirement stating that Smt. Shelke will be completing 60 years of age on 30-06-1996. So, she shall be retired from service of the first party corporation w.e.f. 30-06-1996. It is to be noted that the first party did not produce the service rules, 1960 and the rules framed by the Central Office, such as Life Insurance Corporation of India (Verification of date of birth of the employees) Instructions, 1970 when called by the notice of documents. The first party has also produced its staff regulations, 1960. I have perused the same. Firstly, I noticed that the double exercise made by the first party is without any support of rules or legal sanctity. As stated earlier, the Sr. Divisional Manager who himself admits and communicates that none of the provisions of the Life Insurance Corporation of India (Staff Regulations), 1960 shall be applicable to Smt. Shelke. Then what is the propriety of the first party to make such exercise. Then I refer to the Life Insurance Corporation of India (Staff regulations), 1960 which is printed in July 1960, which has been updated upto 31-12-1983, clearly mentioned in Chapter I Preliminary application that Application (2)—“They shall apply to every whole-time (salaried) employee of the Corporation of India) unless otherwise provided by the terms of any contract, agreement or letter of appointment.”

The definition of “Employee” excludes insurance agents and work-charged employees, whose salaries are

charged to particular property/properties or work/works. This rule clearly shows that the Sr. Divisional Manager of the first party cannot make application of these rules to Smt. Shelke part time Sweeper. The first party contended that Smt. Shelke first gave the date of birth as 01-05-1950. She produced the ration card. Her age was shown as 55 years on 03-09-91. So, the question arises which date to be relied upon. In this respect, I came across the correspondence by way of reply given by the Administrative Officer—Industrial relations department. The Sr. Divisional manager vide inter office memo dated 03-12-92 which is produced at Exh. 30/4 wherein the subject was verification of date of birth part-time sweeper. This was reference to the memo dated 22-10-1992 of the Sr. Divisional manager wherein it has been clearly intimated that as regards to the verification of the date of birth of the employees instructions contended in the circular dated 12-02-1970 are very clear. Therefore, they felt that the case need not to be referred for their advice. In this connection, they draw the attention to Clause No. 8 of the Life Insurance Corporation of India (Verification of date of birth of employees) Instructions, 1970 as per decision be taken on the basis of facts. Thereafter on 3-2-93, the Sr. Divisional Manager has sent a letter is at Exh. 30/6 by which the ration card was called for.

18. At this stage, I have perused the L.I.C. (Verification of birth date of the employees) Instructions, 1970, wherein the rules are very much clear. Rule 4(1) states —“The date of birth of every employees of the Corporation shall be entered in the staff record by an order duly made in accordance with the provisions of these Instructions.”

Rule 4(4)—“Subject to the provisions of these Instructions, the entry shall be conclusive evidence of an employees’ date of birth for the purpose of his/her service in the Corporation, and notice of retirement or retirement or any other action on the basis thereof shall be final.”

I also came across through the Rule 5(3), wherein it has been clearly mentioned that—

“If out of the various listed documents the employee has in his/her possession or power to or more documents showing, different dates of his/her birth, or he has reason to believe that there exists or can be obtained any listed document, showing a different date of birth, he shall inform the verifying authority of the discrepancy and produce all such documents as may be available and state which he believes to show his/her true date of birth and the reasons for such belief.”

The rule clearly provides that if the verifying authority satisfies with the date of birth shown, then he can pass an order to the effect that the date of birth be entered in the staff record on the basis of the documents produced.

Rule 6(1) clearly states that —“If the verifying authority is not satisfied, then he has to refer the case to the competent authority together with the relevant documents.”

Rule-9 has made the provisions of appeal. So, Rule 9 (1) clearly states that “every employee shall have a right of appeal to the appellate authority against any order which is deemed to have been passed under Sub-Clause (3) of Clause 4 or any order passed under Clause 6, 7 or 8 for entering his date of birth in the staff record.”

First Schedule annexed to the said Instructions clearly shows which documents needs to be relied upon. The document at serial No. 10 states “any other record or certificate maintained or issued by a Government or local authority,” needs to be considered as proof.

Second Schedule of the said Instructions clearly states the categories of the verifying authority, Competent authority and appellate authority. In respect of the employees in Class III and Class-IV working in a Divisional Office or in any office subordinate to a Divisional Office, the Divisional Manager is the verifying authority, Executive Director (P) is the competent authority and Chairman is the appellate authority.

In the light of this, if we consider the Rules of verification of date of birth is applicable to Smt. Shelke, then the first party is duty bound to intimate the date of birth to Smt. Shelke immediately which has been taken into her records. Secondly, if the Sr. Divisional Manager has any doubt about two dates, then he was duty bound under Rule 6 (1) to refer the case and documents to the competent authority for decision. It is crystal clear on record that the Sr. Divisional Manager has not referred the case of Smt. Shelke to the competent authority, Executive Director (P) and appellate authority Chairman. On the contrary, he has informed the date of birth of Smt. Shelke which is taken on record as 01-07-1936 at the fag end on 06-12-1995 by issuing the notice of retirement to the workman Smt. Shelke.

19. It is brought on record that Smt. Shelke has given the certificate of date of birth of the police patil, Madha in the year 1987. The first party has also got affidavit by giving letter dated 04-3-88 to the workman Smt. Shelke. Thereafter, the first party did nothing and kept quiet for more than 7½ years i.e. till letter dated 05-12-1995. It is evident on record that till 03-02-1993, the Sr. Divisional Manager has not recorded the date of birth of Smt. Shelke in staff record. There is no any justification or explanation for the delay caused in this respect, given by the first party. As the first party has intimate the date of birth as 01-07-1936 recorded in the staff record vide letter dated 05-12-1995 and on the very next day, they have issued a notice of retirement on 06-12-95. This act itself has taken away right and deprived Smt. Shelke to file an appeal to the Chairman appellate authority which she was entitled as per Rule 9(1) Of the L.I.C. Instructions, 1970. This act of the

first party clearly shows that they have not given the opportunity of explanation or opportunity of representation to Smt. Shelke to file its say in respect of date of birth which they have taken as 01-07-1936 on the staff record.

20. Then I proceed to peruse the document of ration card. I noticed that in the ration card, the name of Smt. Shelke appears and age was put as 55 years. Then the age of her husband Lahu is shown as 58 years. This ration card was given on 03-09-91 by the rationing authority, Chinchwad, Pune-19. The first page of the ration card clearly shows the number of total units six. The first party acted on the basis of the ration card. But I surprise to note how the first party framed or fixed the date of birth of Smt. Shelke as 01-07-1936. The ration card has only given the age and particularly not the date of birth. Therefore, the first party on his own made some calculations and fixed the date of birth as 01-07-1936 unilaterally, arbitrarily on their own. While fixing such date, the first party has not given any notice to Smt. Shelke for calling an explanation. Here the first party has committed the breach of the principles of natural justice. The first party is duty bound before making any act which is going detrimental to the interest of a workman or to affect to the interest of second party by giving show-cause notice. Therefore, this act of the first party is not fair, proper and legal. In respect of ration card, I have to submit that the purpose of giving the ration card to show residential proof of the persons. The ration card is given for nothing the members of the family on which basis, they fix the units. On the basis of units, the Shopkeeper of the rationing Card gives grains oil, kerosene, sugar etc. to the people as per the units fixed by the Government. Therefore, the age shown on the ration card cannot be said to be conclusive proof of the age and date of birth.

21. As against this, the second party and Smt. Shelke has relied upon the certificate of police patil Mr. G.B. Lankeshwar given on 27-01-1987. This police patil has certified her date of birth as 01-05-1950. he opined her age as 37 years. The evidentiary value and presumption of the certificate of police patil is more comparing to the ration card. It is to borne in mind that Smt. Shelke is an illiterate lady. She clearly confirmed that the personally went to the police patil, took certificate on the basis of the information given by her mother. The information given by the mother of Smt. Shelke is not more considerable but the certificate needs to be genuinely believed. The police patil is a statutory authority is recognised by the State Government in the various matters. When the crime takes place, at such village or vasti where there is no police station then the Government has empowered the police patil to take note of the offence. He can inform the police station about the offence committed. He can file first information report to the police station on the basis of which the investigation proceeds. The police patil has right to give character certificate. As he knows each person

residing in the village or vasti, he can judge the age and can certify it. Therefore, the certificate given by Mr. G.B. Lankeshwar, police patil, Madha must be believed by the first party corporation. Secondly, this certificate is supported by an affidavit. Smt. Shelke in her affidavit dated 29-3-88 sworn before the Special Executive Magistrate who is authority regarding her date of birth. Therefore, this affidavit and certificate needs to be believed. This first party has not believed this certificate. The first party did not able to take decision about the certificate of police patil and affidavit. So, they have lapsed the time till 5-12-1995. At this stage, the Sr. Divisional Manager has not considered the provisions of L.I.C. India (Verification of date of birth of the employees) Instructions, 1970. He could have very well forwarded these papers to the competent authority i.e. Executive Director (P). If the competent authority would have taken any decision, then Smt. Shelke would have chance of appeal before the Chairman being appellate authority. According to me, the Sr. Divisional Manager is guilty and responsible for not taking action in time and wasted time of 7½ years. He has communicated the decision to Smt. Shelke on 5-12-1995. On the basis of this, on the very next day, he has issued a notice of retirement. I have also noticed that the first party after getting ration card in the year 1993 has not taken any action and communicated any decision to Smt. Shelke for at least two years. Therefore, considering the evidently value of the certificate given by the police, patil the first party has to rely and enter the date of birth of Smt. Shelke as 01-05-1950 in their staff records. The first party in their written statement raised a dispute about the age of Smt. Shelke. But it is on record that the first party has not sent Smt. Shelke to the Civil Surgeon Sasoon General Hospital for the medical examination by which her age would have been certified by the Civil Surgeon.

22. Considering all these facts, notice dated 6-12-95 intending retirement of Smt. Shelke on 30-06-1996 is arbitrary, illegal amounts to wrongful termination. Before issuing the notice, the first party did not give any opportunity to Smt. Shelke. Therefore, Smt. Shelke has been deprived of her right of explanation or of appeal before the superior authority as per the principles of natural justice. The first party has taken an adamant views. They have not responded the letter dated 29-2-96 sent by Smt. Shelke. They have also not considered the letter dated 29-2-96 sent by second party union. The fact on record is that the dispute has been raised by the second party union in respect of Smt. Champabai Pandurang Shelke' pre-mature retirement before Govt. Labour Officer, Central Govt. under the provisions of the I.D. Act, 1947. It is an admitted fact that during the pendency of the reference, Smt. Shelke was made to retire on the basis of notice on 30-6-1996. Thereafter, Smt. Shelke is out of employment, unemployed.

23. After considering all these facts on record, it is crystal clear that the first party has issued wrongly the

notice of retirement to Smt. Champabai Pandurang Shelke on the basis of the date of birth as 1-07-1936 calculated on the basis of age shown on the ration card. This act is arbitrary, wrong, illegal. The first party has intended to retire Smt. Shelke before attaining her age of retirement i.e. 60 years. The first party compulsorily retired Smt. Shelke pre-maturely on the basis of notice dated 6-12-1995. Therefore, this act is also arbitrary, illegal unjust on the part of the first party corporation. Further the forceful retirement before attaining the age of retirement amounts to illegal termination. The second party union and Smt. Shelke succeeded in proving a wrongful, illegal termination effected by the first party vide its notice dated 6-12-1995. So, I reply Issue No. 1 in the affirmative.

Issue No. 2

24. In respect of this issue No. 2, I am not convinced with the act committed and tried to be justified by the first party of terminating the services of Smt. Shelke. I do not find any propriety, legality, fairness in the act of retiring Smt. Shelke compulsorily before attaining the age of retirement. Therefore, the first party has wrongfully, compulsorily, pre-maturely, illegally terminated the services of Smt. Shelke by way of the retirement w.e.f. The Advocate of the second party has relied on the following rulings : alongwith synopsis of arguments :

- (1) 1996-II-LLJ-82 (Bombay H.C.), between Vincent George Symonds V/s Bharat Petroleum Corporation.
- (2) 1991 15 Adt. C.- page 122 between Chunni Lal V/s. Union of India.
- (3) 1997-75-FLR-153 (Patna H. C.), between M. D. Ibrahim V/s. Central Coalfield Ltd.
- (4) 1997 (77) - FLR-95 (S.C.), between Bharat Cooking Coal Ltd. V/s. Presiding Officer.
- (5) 1999-LIC-2377, (Guwahati H. C.), between Swadesh Ranjan Dey V/s. State of Tripura.
- (6) 2001 (4)-LLN-1091 (Jharkhand H. C.), between Parmanand Singh V/s. B.S.E. Board.

I have gone through the above said rulings. The above said rulings are applicable to the present case in my hand. In the circumstances, I reply this Issue No. 2 in the negative that the first party has not justified its action.

Issue Nos. 3 and 4

25. The second party prayed for reinstatement of Smt. Champabai Pandurang Shelke. The second party prayed that she is entitled for reinstatement with continuity of service and full back wages alongwith consequential benefits. According to the appointment order and notice of retirement, the undisputed fact is that Class IV employee is entitled to serve with the first party corporation till attaining the age of 60 years. This fact has been referred by the first party in their notice of retirement dated 6-12-1995. Therefore, Smt. Shelke is entitled for the relief of reinstatement with continuity of service.

26. The second party union has espoused the dispute of their member worker Smt. Champabai Pandurang Shelke. It is also established that Smt. Shelke is an illiterate woman. She has furnished the Birth date certificate of police dated 27-1-1987. The first party is a statutory corporation. I reach to the conclusion that due to not taking decision and wrongful decision taken by the Sr. Divisional Manager, Divisional of L.I.C. Office Smt. Shelke suffered physical and economic hardships. She challenged the notice of premature retirement dated 6-12-95 before the conciliation officer. It is on record that Smt. Shelke and union has resisted the said notice. But the first party has not fairly, genuinely considered the decision of the Sr. Divisional Manager. It is also established that during the pendency of the dispute before the conciliation officer, the first party on 30-1-1996 forcibly illegally terminated the services of Smt. Champabai Pandurang Shelke. Therefore, I am of the view that the statutory corporation like first party needs to be saddle with the compensatory costs to prevent the injustice and hardships which may accrue with the other employees in future. No other workman suffer like Smt. Champabai Pandurang Shelke, for no fault of her. Therefore, I direct the first party to compensate the second party union and Smt. Champabai Pandurang Shelke with costs as mentioned in the operative order.

27. Smt. Shelke also suffered physical and mental and economic hardships for no reasons. As the first party acted as per the notice of retirement dated 6-12-1995, Smt. Shelke is thrown on the street. The second party union has succeeded in proving the illegal termination affected by the first party. Smt. Shelke who is a part-time sweeper-cum-scavenger working with the first party for three hours, is entitled for the relief of full back wages. I, therefore, held that Smt. Champabai Pandurang Shelke is entitled to reinstatement with continuity of service and full back wages alongwith consequential monetary benefits from the date of premature retirement till attaining age of retirement considering date of birth as 1-5-1950. So, I reply this issue accordingly.

28. In the result, I proceed to pass the following award:—

AWARD

- (i) The reference is allowed.
- (ii) The first party is directed to reinstate Smt. Champabai Pandurang Shelke to her original post with continuity of service alongwith consequential monetary benefits and to pay full back wages for the intervening idle period, within one month from the date of publication of this award.
- (iii) The first party is further directed to pay costs of Rs. 5000 (Rupees five thousand only) towards this proceeding to Smt. Champabai

Pandurang Shelke and Rs. 1000/- (Rupees one thousand only) be given to the second party union.

(iv) No order as to costs.

Per,

Dated: 22-11-2002.

Sd/-

CHANDRASHEKHAR INAMDAR,
Presiding Officer

नई दिल्ली, 14 जनवरी, 2003

का. आ. 480.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन ओवरसीज बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या 98/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-1-2003 को प्राप्त हुआ था।

[सं० एल-12012/224/98-आई० आर० (बी०-II)]
सी. गंगाधरन, अवर सचिव

New Delhi, the 14th January, 2003

S.O. 480.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.98/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Overseas Bank and their workman, which was received by the Central Government on 13-01-2003.

[No. L-12012/224/98-IR(B-II)]
C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 3rd December, 2002

Present : K. KARTHIKEYAN,
Presiding officer

INDUSTRIAL DISPUTE NO. 98/2001

(Tamil Nadu State Industrial Tribunal I.D. No. 48/99)

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947), between the Workman Sri Joseph Wilfred and the Management of Indian Overseas Bank, Chennai.)

BETWEEN

Sri Joseph Wilfred

: I Party/Workman

AND

The Chairman & Managing : II Party/Management
Director,
Indian Overseas Bank, Chennai.

Appearance :

For the Workman : M/s. R.P.K. Murugesan &
M. Arumugam, Advocates.

For the Management : M/s. N.G.R. Prasad,
S. Vaidanathan, Advocates.

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide order No. L-12012/224/98/TR (B-II) dated 22-02-99/09-03-99.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, Chennai, where the same was taken on file as I.D. No. 48/99. When the matter was pending enquiry in that Tribunal, Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu State Industrial Tribunal to this Tribunal for adjudication. On receipt of records from that Tamil Nadu State Industrial Tribunal, this case has been taken on file as I.D. No. 98/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 30-01-2001 with their respective parties and to prosecute this case further. Accordingly, the learned counsel on either side along with their respective parties have appeared and prosecuted this case further.

Upon perusing the Claim Statement, Counter Statement, the additional Counter Statement, oral and documentary evidence let in on either side, the other material papers on record, after hearing the arguments advanced by the learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. of adjudication by this Tribunal is as follows :—

“Whether the termination of the workman Sri Joseph Wilfred w.e.f. 16-6-95 by the management of Indian Overseas Bank is justified? If not, what relief is the workman entitled to?”

2. The averments in the Claim Statement filed by the I Party/Workman Sri Joseph Wilfred (hereinafter refers to as Petitioner) are briefly as follows :—

The Petitioner was employed as Clerk in the Indian Overseas Bank w.e.f. 29-1-79 and posted in the Personnel

Department, Central Office, Chennai. He had unblemished record of service for over 16 years. He was affected by depression and had to undergo treatment from a psychiatrist. He applied for sick leave supported with medical certificate from time to time. He applied for leave w.e.f. 2-5-94 on medical grounds and submitted medical certificate issued by Dr. T.N. Srinivasan, M.D. and Consultant Psychiatrist. The Petitioner was advised rest from work for a period of 21 days. He applied for extension of leave submitting medical certificate dated 18-7-94 issued by Dr. T.N. Srinivasan, Dr. U. Shankar Rau, Consultant Physician for the bank and the Consultant Medical Director referred the Petitioner to Dr. T.N. Srinivasan and the medical certificate was issued by competent Doctor approved by the II Party/Management bank and therefore, the question of non-acceptability of medical certificate does not arise. The Petitioner was paid salary for the months of May, June and July, 1994. The Petitioner joined duty in 3rd week of October, 1994. At that time, the Petitioner did not recover from mental depression. From the same reason, the Petitioner applied for leave from 1-11-94 for four months submitting application dated 7-11-94 along with medical certificate dated 1-11-94 issued by Dr. T.N. Srinivasan. The Petitioner left for New Delhi on 13-11-94 intimating the residential address at Madras for all communication purposes. In New Delhi the Petitioner consulted Dr. Sandeep Saluja, consultant Physician of All India Institute of Medical Sciences, New Delhi. Though the Petitioner was entitled to medical leave by virtue of his services, the Chief Officer, Industrial Relations by his letter dated 30-12-94 declined to treat his absence as sick leave from 7-11-94 and treated it as unauthorised. The Petitioner was directed to report for duty immediately. From New Delhi the Petitioner sent a letter dated 7-1-95 requesting to treat his absence as sick leave on loss of pay. The Petitioner also requested the II Party/Management to inform him as to when he should appear before the medical board. In the meantime, the Dean of Govt. General Hospital, Chennai wrote to the Petitioner by letter dated 20-2-95 directing him to appear before the Medical Board, Govt. General Hospital, Chennai at 10-00 a.m. on 24-2-95 for Medical examination in connection with the leave that should be granted. The Petitioner's agent received the said letter only on 24-2-95 at Madras during when the Petitioner was in New Delhi. No time was left to communicate to the Petitioner to enable the Petitioner to appear before the Medical Board on 24-02-95. The Petitioner requested the Chief Officer I.R. department, Central Office by his letter dated 4-3-95 to intimate the next date for appearance before the Medical Board. The II Party/Management declined the request and treated the sick leave on medical grounds unauthorised. The II Party/Management directed the Petitioner to report for duty on or before 5-4-95. The Petitioner received the said letter at New Delhi and acknowledged the receipt of the same by his letter dated 4-4-95. The Petitioner requested the II Party/Management

to grant time to reach Madras. The Petitioner vide his letter dated 17-5-95 informed the bank of his return to Madras regretting inability to report for duty in response to earlier communication. The Petitioner further intimated the bank that he was ready and willing for medical check up and requested for sick leave on loss of pay for a period of three months enclosing medical certificate dated 16-5-95 for chronic depression from Dr. T.N. Srinivasan and the Doctor had advised there in that the Petitioner may benefit from a change in his place of living/work. In spite of explanations offered by the Petitioner the II Party/Management caused a notice dated 16-5-95 treating the Petitioner's absence from 7-11-94 as unauthorised. The notice was issued under para 17 of 5th Bipartite Settlement dated 10-4-89. However, on 30-5-95 the Petitioner received a sum of Rs. 1224/- from the II Party/Management as reimbursement of medical expenses. The Petitioner sent a reply dated 14-6-95 within 30 days from the date of notice offering his explanation substantiating the reason for availing medical leave. The said written representation was acknowledged by the II Party/Management on 16-6-95. As per clause 17 of 5th Bipartite Settlement dated 10-4-89 once written explanation to the notice was submitted, the bank ought to have given the Petitioner an opportunity and referred the Petitioner to medical board for its report and allowed him to join duty. On the other hand, the II Party/Management instead of considering the case of the Petitioner sympathetically to grant leave as admissible even on loss of pay declined the leave and informing the Petitioner vide letter dated 20-6-95, stating that it is deemed that you have voluntarily retired from bank's service on your own accord w.e.f. 16-6-95. There was no finding in the order dated 20-6-95 that the II Party/Management was not satisfied with the explanation offered by the Petitioner vide letter dated 14-6-95 even though the II Party/Management had received the said letter on 16-6-95 itself. The Petitioner has not taken up any employment or avocation during the period of sick leave. As per para 17 of the 5th Bipartite Settlement if the workman offered his explanation in writing within 30 days expressing his intention to join duty and requesting to treat the absence as sick leave supported with medical certificate and once the explanation is offered, the II Party/Management cannot declare that it is deemed that the employee has voluntarily retired from the bank services on his own accord w.e.f. 16-6-95. The Petitioner had not taken up any employment or avocation and that he had no intention of joining duty. The Petitioner was not given adequate opportunity by the II Party/Management. No show cause notice was given and no enquiry was conducted. The Petitioner had not violated the provisions of para 17 of the 5th Bipartite Settlement. There was satisfactory materials and evidence to satisfy that he was not on unauthorised leave and that he was on sick leave supported with medical certificate. The application of para 17 itself is erroneous. A Writ Petition No. 15835/95 was filed challenging the order dated

20-6-95 which was admitted on 29-1-96. The Hon'ble High Court of Madras dismissed the writ petition by order dated 29-4-97. The Hon'ble High Court held that only course open for the writ Petitioner is to raise an industrial dispute before the concerned Presiding Officer, Labour Court and that in case, if the Presiding Officer passed award against him then naturally the course is open to the Petitioner to invoke Article 226 of the Constitution of India by way of Writ. The Writ Appeal No. 789/97 filed by the Petitioner was dismissed on 11-7-97. The Special Leave Petition No. 22150/97 was also dismissed by the Hon'ble Supreme Court on 15-12-97. The Petitioner raised an industrial dispute before the Regional Labour Commissioner, Chennai for conciliation. Since it ended in failure, he sent a failure of conciliation report to the Central Govt., which in turn referred this dispute for adjudication by this Tribunal. The Bank Management's order dated 20-6-95 is not valid in law and is in violation of principles of natural justice. The bank's order of voluntary retirement of the workman based on para 17 of 5th Bipartite Settlement dated 10-4-89 is illegal, as the conditions laid down in the said para 17 of 5th Bipartite Settlement have no bearing on the facts of this case, since that clause is applicable only to an employee absenting himself from work for a period of 90 or more consecutive days without submitting any application for leave or for extension of leave. After submission of representation giving out the reasons for his absence on medical grounds, the II Party/Management ought to have referred the Petitioner to medical board on receipt of his written explanation dated 14-6-95. The question of workman had gone on voluntary retirement or had gone on medical leave has to be gone into only in the enquiry duly initiated for the purpose especially, when the Petitioner had produced all relevant certificates from doctors endorsing his leave and the same had been duly approved and also his salary paid. In the absence of any such enquiry, the II Party/Management cannot presume anything against the available certificates and proceeded against the Petitioner. It is also discriminatory because exactly in similar circumstances, the bank in other cases had taken recourse to different procedure invoking different powers under the regulations/rules of the bank. For example, Sri S. Krishnamurthy, Scale II Officer, Indian Overseas Bank, Vijayawada. In W.P.No. 8115 of 1996 dated 25-7-1997 in Andhra Pradesh High Court. Therefore, the decision of the II Party/Management is totally unsustainable in the eye of law and has to be set aside. The Petitioner's last drawn salary was Rs. 6,000/- per month. The Petitioner is entitled to back wages at the rate of Rs. 6000/- per month from 16-6-95 subject to enhancement of the salary as per the 6th Bipartite Settlement. The Petitioner is entitled for reinstatement with back wages w.e.f. 16-6-1995. Hence, it is prayed that this Hon'ble Tribunal may be pleased to award for reinstatement of the Petitioner into service with all back wages w.e.f. 16-6-95.

3. The averments in the Counter Statement filed by

the II Party/Management Indian Overseas Bank (hereinafter refers to as Respondent) are briefly as follows:—

The Petitioner was employed as Clerk in Indian Overseas Bank II Party/Management on 29-1-79. It is denied that the Petitioner had unblemished record of service. There were irregularities with respect of the vehicle loan No. 12/90 availed by the member in the II Party/Management bank. The Petitioner's record of attendance was also very poor. By some reason or other the Petitioner abstained himself from duty continuously for months. A perusal of the record of attendance will show that from October, 1991 to July, 1994 the Petitioner failed to attend duties for a period of 380 days. In view of his frequent absence there was dislocation of work and the bank was put to lot of administrative inconvenience. The Respondent/Bank denies that the Petitioner was affected by depression and had to under go treatment from a psychiatrist. The Petitioner is put to strict proof of the said averment. Mere production of medical certificate from time to time is not sufficient cause for entitling the Petitioner for sick leave. The Petitioner was on leave continuously from 2-5-94 without having any leave to his credit on loss of pay. As admitted by the Petitioner he joined duties during the 3rd week of October, 1994 after his prolonged absence from 2-5-94. After joining duties, the Petitioner again went on leave vide leave application dated 27-10-94 for two days from 25-10-94 and 26-10-94 by producing a medical certificate dated 26-10-94 stating that he was suffering from Pyrexia and Synustis. Again the Petitioner went on leave on 28-10-94, 1-11-94 and 2-11-94 stating that he was suffering from Gastritis and viral fever. The Petitioner did not stop with that and started absenting himself from 7-11-94 without producing any leave application. However, the bank received a letter dated 7-11-94 on 17-11-94 from the Petitioner in which it was requested that his absence from 7-11-94 has to be treated as sick leave. In the said letter, he had undertaken to produce the medical certificate on reporting for duty. Further, he did not specify the period for which he required leave. The allegations in the Claim Statement that the Petitioner applied for leave from 1-11-94 for four months by submitting application dated 7-11-94 along with medical certificate are false and untrue. As there was no leave at credit to the Petitioner, the bank declined his request to treat his absence from 7-11-94 as sick leave and treated the same as unauthorised and the same was intimated to the Petitioner by letter dated 30-12-94 in which he was instructed to report for duty immediately. The Petitioner was also advised in the letter that on reporting for duty he had to appear before the medical board along with his medical certificate etc. for medical check up and report. On receipt of the said letter, the Petitioner did not report for duty but had sent a letter dated 7-1-95 which was actually received by the bank on 30-1-95. In the said letter, he requested the bank to treat his absence as sick leave on loss of pay and requested the bank to advise him the date on which he has to appear before the medical board. Though

the letter was stated to be sent from New Delhi, the address given in the letter was at Chennai. The Petitioner had not given any address at New Delhi for communication in his letter dated 7-1-95. The Petitioner had specifically requested the bank to address all the communications to his residence at Madras. It was also not informed in the said letter that he was taking treatment at New Delhi. Under such circumstances, at the request of the bank, the Dean of the Govt. Medical Hospital, through his communication dated 20-2-95 called upon the Petitioner to appear before the medical board at the Govt. Hospital on 24-2-95 for submitting himself for medical examination. The Petitioner did not appear before the medical board as directed but replied vide his letter dated 4-3-95 that he could not appear before the medical board at Madras on 24-2-95 as he was at Delhi. In the said letter also he had given the address for communication as his residential address at Madras. Further, he assured in the said letter he would report for duty after 15 days. The Petitioner again failed to rejoin duty as stated by him in his letter dated 4-3-95. Hence, the bank was compelled to send another communication dated 18-3-95 in which he was instructed to report for duty on or before 5-4-95 failing which suitable action would be taken against him. The Petitioner again vide his letter dated 4-4-95 informed the bank that he must be given 15 days time latest by 20-04-95 for joining duty. However, the applicant did not turn up for duty as stated by him. Under these circumstances, the bank having left with no other alternative, but to issue a notice dated 16-5-95 in accordance with clause 17 of Bipartite Settlement dated 10-4-89 enabling him to join duty within 30 days from the date of notice, failing which it shall be deemed that he has voluntarily retired from the bank's service on his own accord. The Petitioner acknowledged the said letter in his reply dated 14-6-95 and requested to treat his absence from 7-11-94 as sick leave on loss of pay. In this letter also, he has not given any assurance rejoining duty. He has also requested the bank to post him temporarily to some other branch to enable him to report for duty. Since the claim of the Petitioner was not satisfactory, the bank has rightly come to the conclusion that the Petitioner had no intention of joining duties and he was intending to prolong the matter without an end much against the interest of the bank. The Respondent/Bank under these circumstances, constrained to pass an order dated 20-6-95 stating that the Petitioner had voluntarily retired from the bank's service on his own accord w.e.f. 16-6-95. There is no provision for charge sheet and enquiry under para 17 of the Bipartite Settlement. The Petitioner is liable to prove that he was undergoing treatment during those periods at New Delhi. The averment of the Petitioner that he was suffering from depressing and undergoing treatment at New Delhi are concocted stories of the Petitioner for the purpose of this case and there is no truth in the same. The Petitioner was deemed to have voluntarily retired from the services of the bank w.e.f. 16-6-1995 only. The bank has sent the notice for voluntary

retirement dated 16-5-95 giving 30 days time to report for duty. Sending of reply dated 14-6-95 by the Petitioner does not prevent bank from voluntarily retiring the services of the Petitioner as per the notice for voluntary retirement. In his reply dated 14-6-95 the Petitioner had requested the bank to treat his absence as sick leave as he requested in his earlier letters. He had been absent for a long time from 7-11-94 and this reply was in continuance of the same. Hence, the allegation that reply to notice for voluntary retirement was not properly considered is not true. The bank was not satisfied with the reply dated 14-6-95 and hence proceeded with the matter by issuing an order of voluntary retirement in accordance with Section 17 of the Bipartite Settlement. The bank's order dated 20-6-95 is in order as the same is consequent to the unauthorised absence of the Petitioner. For officers, the bank issues notice for voluntary retirement under Indian Overseas Bank Officers Service Regulations, 1979 which is not applicable to the award staff governed by Bipartite Settlement. Hence, there is no discrimination as claimed by the Petitioner in taking recourse against Sri S. Krishnamurthy, Scale II Officer, Vijayawada. Since the Petitioner brought about the termination by his own act in terms of para 17 of Bipartite Settlement dated 10-4-89, the question of the employee having non-employed does not arise. The question of 11A also will not apply. Since the non-employment has been brought about by the Petitioner himself, the question of any relief does not arise. Hence, it is prayed that this Hon'ble Tribunal may be pleased to dismiss the dispute with exemplary cost.

4. The averments in the additional Counter Statement filed by the II Party/Management are briefly as follows:—

Para 5 (a) and (b) inserted after para 5 have no relevance to the present dispute and are vexatious in nature. The Petitioner had raised fresh contentions in the said paras on the presumption that the 30 days time contemplated for reporting for duty under para 17 of Bipartite Settlement is reckoned from the date of receipt of notice of voluntary retirement by the Petitioner. It is submitted that the said period is reckoned from the date of notice and not from the date of receipt of the notice. The Petitioner was not arbitrarily retired from the services of the Respondent/Bank by invoking para 17 of Bipartite Settlement in the notice period itself. In spite of the bank's instructions, the Petitioner failed to rejoin the duties within the period of 30 days therefore, the bank has issued an order of voluntary retirement dated 20-6-95 confirming that he was treated as voluntarily retired from the bank services. It is clear from para 17 of Bipartite Settlement that 30 days time for reporting for duty is reckoned from the date of the show cause notice and not from the date of receipt of notice by the Petitioner. The Petitioner did not enclose any medical certificate with his explanation, in proof of his illness and requested leave for an indefinite period. The said explanation had shown no intention on the part of the Petitioner to join duties but only shown his intention to

prolong his unauthorised absence. Under such circumstances, the Respondent was constrained to pass an order dated 20-6-95 treating the Petitioner as voluntarily retired from the bank's service on his own accord w.e.f. 16-6-95 i.e. expiry of thirty days time stipulated in the show cause notice. It is denied the Petitioner was treated as voluntarily retired from the bank's service on the 27th day of show cause notice. The 30 days time for reporting for duty is to be reckoned from the date of notice and not from the date of receipt of notice. It is also denied no grounds or reasons were shown in the show cause notice dated 16-6-1995. It was clearly stated in the notice of voluntary retirement that during 1994-95 the Petitioner unauthorisedly absent from duties without submitting any leave letter or assigning any reason for the same. Therefore, the order dated 20-6-95 was issued after giving reasons in the notice dated 16-6-1995 and also by observing all the procedures contemplated under para 17 of Bipartite Settlement. The question of retrenchment will not arise in this case in which para 17 of the Bipartite Settlement has been invoked. Since the question of payment of retrenchment compensation under section 25F of the Industrial Disputes Act, 1947 will also not arise in this case, the order dated 20-6-95 will not become illegal and void ab initio as stated by the Petitioner. The Petitioner was given reasonable opportunity to join duties in the Respondent/Bank. However, he failed to respond to the same. The question of conducting domestic enquiry will not arise in this dispute, which is covered by para 17 of Bipartite Settlement. The Petitioner was treated as voluntarily retired from bank's service in view of his prolonged unauthorised absence. Hence, the contention of the Petitioner that he was victimised for his union activities has no relevance to this case. The Petitioner was a leading office bearer of Indian Overseas Bank Employees Union affiliated to INTUC, a Central Trade Union has also no relevance to the present dispute. The Petitioner was not retired/terminated retrospectively as stated by him. By issuing show cause notice under para 17 of Bipartite Settlement giving him 30 days time to report for duty, the Respondent/Bank confirmed that on expiry of 30th day, the Petitioner would be treated as voluntarily retired from the service. The order dated 20-6-1995 has only confirmed the voluntary retirement of the Petitioner on his own accord, which had already taken place w.e.f. 16-6-1995 and the same cannot be construed as retrospective retirement/termination. Hence, it is prayed that this Hon'ble Tribunal may be pleased to dismiss the dispute raised by the Petitioner with exemplary cost.

5. When the matter was taken up for enquiry finally, the Petitioner himself has examined as a witness as WW1 and 45 documents were marked on the side of the I Party/Workman as Ex. W1 to W45. On the side of the II Party/Management 2 witnesses were examined as MW1 and MW2 and 17 documents have been marked as Ex. M1 to M17. The arguments advanced by the learned counsel on

either side were heard.

6. The Point for my consideration is —

“Whether the termination of the workman Sri Joseph Wilfred w.e.f. 16-6-1995 by the management of Indian Overseas Bank is justified? If not, what relief is the workman entitled to?”

Point :

The Petitioner/Workman Sri Joseph Wilfred has raised this industrial dispute challenging the action of the Respondent/Management of Indian Overseas Bank in terminating him from the services of the bank w.e.f. 16-6-95 as unjustified. He prayed for the relief requesting this Tribunal to pass an award by holding the action of the Respondent/Management as illegal and consequently direct the Respondent/Bank management to reinstate him in service with back wages w.e.f. 16-6-95. The Petitioner was employed in the Respondent/Bank on 29-1-1979. It is his contention that he had unblemished record of service over 16 years and that he was affected by depression and had to undergo treatment from a psychiatrist. So he applied for sick leave supported by medical certificate from time to time and he applied for medical leave w.e.f. 2-5-1994 on medical grounds and that as he was advised rest from work for a period of 21 days, he applied for extension of leave submitting a medical certificate dated 18-7-1994 issued by the Doctor approved by the Respondent/Bank management and that he joined duty in the 3rd week of October, 1994, even though he did not recover from mental depression and that for the same reason, he applied for leave from 1-11-1994 for four months by submitting an application dated 7-11-1994 with the medical certificate issued by Doctor and that he left for New Delhi on 13-11-1994 intimating his residential address at Madras for all communication purposes. It is his further contention that though he was entitled to medical leave by virtue of his services. Chief Officer, Industrial Relations, by letter dated 30-12-1994 declined to treat his absence as sick leave from 7-11-1994 and treated it as unauthorised. It is also his contention that in spite of his written explanation to the notice of the Respondent/Bank management without giving an opportunity to the Petitioner and referring him to medical board for its reports and allow him to join duty and without considering the case of the Petitioner sympathetically to grant leave as admissible even on loss of pay, declined the leave and sent a letter dated 20-6-1995 stating that it is deemed that the Petitioner had voluntarily retired from bank's service on his own accord w.e.f. 16-6-1995 without giving a finding that the bank management was not satisfied with the explanation offered by the Petitioner by his letter dated 14-6-1995. He would further contend that he was not given adequate opportunity by the Respondent/bank management, no show cause notice was given and no enquiry was conducted and the Petitioner had not violated the provisions of para 17 of 5th Bipartite Settlement. But it

is the contention of the Respondent/Management that the Petitioner's record of attendance was very poor and that by some reason or other the Petitioner abstained himself from duty continuously for months and he failed to attend duty for a period of 380 days from October, 1991 to July, 1994 and in view of his frequent absence for work there was dislocation of work and the bank was put to lot of administrative inconvenience and that mere production of medical certificate from time to time is not sufficient cause for entitling the Petitioner for sick leave and that he was on leave continuously from 2-5-1994 without having any leave to his credit on loss of pay and that after joining duties, during the 3rd week of October, 1994 the Petitioner again went on leave for two days on 25-10-94 and 26-10-1994 by producing a medical certificate dated 26-10-1994 with his leave application dated 27-10-1994 again he went on leave for 28-10-1994, 1-11-94 and 2-11-1994 stating that he was suffering from gastritis and viral fever and he remained absent from 7-11-1994 without producing any leave application. The bank received a letter dated 7-11-1994 on 17-11-1994 from the Petitioner with the request to treat his absence from 7-11-1994 as sick leave. He did not specify the period for which he required leave and that as there was no leave at his credit, the bank declined his request to treat his absence from 7-11-1994 as sick leave and treated the same as unauthorised and the same was intimated to the Petitioner by letter dated 30-12-94 wherein the Petitioner was instructed to report for duty immediately. In that letter he was advised that on reporting for duty, he had to appear before the medical board along with his medical certificates etc. for medical check up. A detailed account of the Petitioner's absence for duty for all these period has been given in the Counter Statement of the Respondent/Management. In spite of instructions were given by the bank management to the Petitioner to report for duty very many times and ultimately the bank had sent a notice dated 16-5-1995 in accordance with clause 17 of the Bipartite Settlement dated 10-4-1989 enabling the Petitioner to join duty within 30 days of the notice and informing him that failure to comply with the direction shall be deemed that the Petitioner has voluntarily retired from the bank's service on his own accord. Though the Petitioner had acknowledged the said letter and sent a reply dated 14-6-1995 and requested for his absence from 7-11-1994 as sick leave on loss of pay for without giving any assurance of rejoining for duty, but requested the bank to post him temporarily to some other branch to enable him to report for duty. On this ground, the Respondent/Management constrained to pass an order dated 20-6-1995 having come to the conclusion that the Petitioner had no intention of joining duty and passed an order dated 20-6-1995 stating that the Petitioner had voluntarily retired from the bank's service on his own accord w.e.f. 16-6-1995.

7. In support of the contentions raised by the Petitioner in his Claim Statement, he has examined himself

as WW1 and has filed 45 documents as Ex. W1 to W45. On the other hand, on the side of the Respondent/Management two witnesses have been examined as MW1 and MW2 in support of their contention in Counter Statement and 17 documents have been filed as Ex. M1 to M17. Though the Petitioner has stated in his Claim Statement that he had unblemished record of service over 16 years in his evidence as WW1 he has admitted that from October, 1991 to July, 1994 due to his ill health he could not attend duty and he applied for leave on medical grounds during that period and it is approximately 300 days and the leave he applied for on medical ground were duly sanctioned by the bank management. In the cross-examination, he has admitted that during the period between 7-11-1994 to 16-6-1994 he had not attended his work in the bank, but for that period, he sent to the bank management various letters with medical certificates seeking medical leave for that period and the medical leave he applied for that period was not sanctioned. It was also admitted that under Ex. W6 letter dated 30-12-94 sent by the bank he was asked to appear before the medical board along with medical certificates, prescription, pathological test reports for medical check up and that for that letter, he sent a reply dated 7-1-1995 to the bank management under Ex. W13 stating that as per the instruction in Ex. W6 letter he had not reported for duty immediately and he went to Delhi on 13-11-1995 and returned back from Delhi on 5-5-1996 and till such time he was at Delhi only and in his reply Ex. W13 he mentioned his address as that of his office address to show that only from that address he had sent that letter and he has admitted that in that letter he has not mentioned that he was at Delhi on that date. It is also his admission in the cross-examination that he was not issued any order by the bank management sanctioning the special casual leave to attend the union meeting and that during the period between 7-11-1994 and 16-6-1995 he had not requested for grant of special casual leave. MW1 had deposed that the Petitioner Mr. Joseph Wilfred was continuously absent for work and his record of attendance was very poor and he was continuously absented himself for work for a period of 380 days from October, 1991 to July, 1994 and his past record of service is blemish. He has also stated that for the unauthorised absence of the Petitioner in the year 1991 the charge memo was issued to him and the xerox copy of the same is Ex. M2 for which the Petitioner gave a reply and the xerox copy of the same is Ex. M3 and subsequently a domestic enquiry was conducted and it was found in the enquiry that the charges levelled against the Petitioner has been established and a 2nd show-cause notice under the original of Ex. M4 was given and subsequently, the Disciplinary Authority passed an order of punishment dated 8-12-1992 and the xerox copy of the same is Ex. M1. From this oral and documentary evidence, it is established on the side of the Respondent/Management that the averment and contention of the Petitioner that he had unblemished service of 16 years is incorrect. A perusal of

Ex. M1 order clearly shows that the Disciplinary Authority, while passing the punishment of warning in terms of clause 17.8(a) of Bipartite Settlement for the proved charges, has considered all the aspects on merits. So, from this it is seen that the Petitioner is in the habit of absenting from duty during his period of service often and for which he has been proceeded against by the Disciplinary Authority by taking disciplinary proceedings and punishments have been imposed for his proved misconduct.

8. It is not disputed that the Petitioner was continuously absent from 7-11-1994. He wanted to treat his absence as sick leave and informed the Respondent/Management that he will produce medical certificate, without mentioning the period of leave. So the bank took a decision to treat the absence from 7-11-1994 as unauthorised and asked the Petitioner to report before the medical board by its communication dated 30-12-1994. The said communication is Ex. W6. In that the Respondent/Bank management has informed the Petitioner that the bank management was informed by his department that he is not attending office since 7-11-1994 and his request to treat his absence from 7-11-1994 as sick leave is declined and the same is treated as unauthorised and he has been instructed to report for duty immediately failing which suitable action will be taken against him. In that letter, the Petitioner was further informed by the Respondent/Bank that on his reporting for duty he has to appear before medical board along with medical certificate, prescriptions, pathological test reports for medical check up under the board. For that the Petitioner has sent a reply dated 7-1-1995 enclosing medical certificate issued by the Doctor dated 1-11-1994. The xerox copy of the same is Ex. W12, wherein the Petitioner has stated that his absence may kindly be treated as sick leave on loss of pay and he wanted the management to inform him as to when he should appear before the medical board for medical check up. Further, he has stated that all his communications may be addressed to his Madras residential address mentioned therein. In this letter, the Petitioner has not stated the period of his absence to be treated as sick leave on loss of pay. Only in the enclosed medical certificate, the Doctor has stated that the Petitioner is advised rest from work for a period of 4 months w.e.f. 1-11-1994, since he has been under his professional care for depression. The Petitioner himself has filed a document Ex. W7. It is a communication sent by Govt. General Hospital, Madras dated 20-2-1995 to the Petitioner intimating him regarding medical examination by the Board for his medical leave. In that communication, the Dean of the Medical College had directed the Petitioner to appear before the medical board at Govt. General Hospital, Madras at 10.00 A.M. on 24-2-95. Admittedly the Petitioner has not reported before the medical board for medical examination on the appointed date. On the other hand, he sent a letter dated 4-3-95 to the Central Office seeking fresh date to appear before the medical board. In that letter he has stated about the receipt of the letter from medical board

directing him to appear for medical examination on 24-2-95 and that as per the Doctor's advise for the change of place, he was presently at Delhi in the given address and hence, he could not appear before the medical board on 24-2-95 for want of time and he requested the management to treat his absence as sick leave on loss of pay and permit him to produce medical certificate for the period 1-3-95 onwards on reporting for duty and he has also requested the Respondent/Management to inform him in advance regarding the date of medical examination and he may be intimated as to when he should appear before Regional Madras Board at Madras to his Madras address given thereunder. But in his evidence, before this Tribunal as WW1, the Petitioner has admitted that he was attending the union work as an office bearer. It is not disputed that the Respondent/Bank management has sent another letter dated 18-3-95 informing the Petitioner that his request under letter dated 4-3-95 under Ex. W8 cannot be considered and his request for leave from 7-11-94 on medical grounds is declined and his entire absence is treated as unauthorised and he has been directed to report for duty on or before 5-4-95. It is also not disputed that for this direction of the Respondent/Management under Ex. W13, the Petitioner has not reported for duty on 5-4-95 but he sent a reply dated 4-4-95 stating that he will report for duty on 20-4-95. The copy of the said reply is Ex. W14. It is also not disputed that as promised by the Petitioner under Ex. W14 he has not reported for duty on 20-4-95. Then only the Respondent/Management has sent notice of voluntary retirement dated 16-5-95 to the Petitioner under clause 17 (a) of Bipartite Settlement mentioning their earlier recall letters dated 30-12-94 and 18-3-95 and holding that from his continued unauthorised absence it is obvious that he had no intention to rejoining duties and continuing his employment in the bank services. Further in that letter itself, the Petitioner was advised to report for duty within 30 days of the date of letter, failing which it shall be deemed that he has voluntarily retired from bank service on his own accord. This communication was sent by registered post to the Petitioner's given residential address at Madras and it was duly served on him on 19-5-95. The served postal cover also has been filed by the Petitioner along with Ex. W17. Even for that direction under Ex. W17 the Petitioner has not reported for duty within 30 days from 16-5-95. But the Petitioner had sent a letter dated 17-5-95 seeking extension of leave by another three months from the date of the letter dated 17-5-95 and requested the management to treat his absence from 1-11-94 as sick leave on loss of pay and in case, if the bank has any reservation/objection to grant leave on loss of pay on medical grounds, he is prepared to appear before medical board for medical examination and he may be granted 30 days time for appearance before the medical board. The copy of the one such letter dated 17-5-95 of the Petitioner to Respondent/Management is Ex. W15 enclosed with the xerox copy of the certificate issued by the Doctor. Even subsequent to

that the Petitioner has not reported for duty. The Petitioner as WW1 has admitted in the cross examination that during the period between 7-11-94 and 16-6-95 he had not requested for grant of special casual leave and he was not issued any order by the bank management sanctioning him special casual leave to attend union meeting and that when he went to attend the union work as the office bearer of the union without attending his work in the bank, he was not given duty off by the bank and that their union is an unrecognised union, he was given the facility of availing 21 days special casual leave in a year as an office bearer of their union to attend the union work. He would further admit that it is true that punishment was given to him by the Respondent/Bank Management by giving warning for his earlier absence for work in the earlier period during 1991 and the final order dated 8-12-92 passed by the management imposing punishment of warning in terms of clause 17(a) of Bipartite Settlement is Ex. M 1. It is not disputed that the Petitioner Sri Joseph Wilfred who absented for duty from 7-11-94 continuously have not reported for duty till 16-6-95, the 30 days period given to the Petitioner by the Respondent/Management from the date of notice Ex. W17 under which the Petitioner was recalled for duty as per clause 17(a) of Bipartite Settlement. As per that clause when an employee absents himself from work for a period of 90 or more consecutive days, without submitting any application for leave or for its extension or without any leave to his credit or beyond the period of leave sanctioned originally/subsequently or when there is satisfactory evidence that he has taken up employment in India or when the management is satisfied that he has no intention of joining duties, the management may at any time, thereafter give a notice to the employee at his last known address calling upon him to report for duty within 30 days of that notice stating inter-alia, the grounds for coming to the conclusion that the employee has no intention of joining duties and furnishing necessary evidence, where available. It is further stated in that clause that unless the employee reports for duty within 30 days of the notice or give his explanation for his absence within the said period of 30 days satisfying the management that he has not taken up another employment or avocation and that he has no intention of not joining duties the employee will be deemed to have voluntarily retired from the bank's service on the expiry of the said notice and that in the event of the employee submitting a satisfactory reply, he shall be permitted to report for duty thereafter, within 30 days from the date of expiry of the aforesaid notice, without prejudice to the bank's right to take any action under the law or rules of service. From the facts of this case, it is seen that the bank management has sent a notice under Ex. W17 dated 16-5-95 recalling the Petitioner for duty within 30 days from 16-5-95. The Petitioner has not reported for duty within that 30 days period i.e. on or before 16-6-95 but he sent a letter dated 17-5-95, under Ex. W5 asking for extension of leave by another three months from 17-5-95

and to treat his absence from 1-11-94 as sick leave on loss of pay. Admittedly he has not reported before the bank management or before the medical board with relevant records to prove his continuous ill health all those days and subject himself for medical examination by the competent medical board. It is also not disputed that the bank management had sent earlier two letters dated 30-12-94 and 18-2-95 under Ex.W6 and W13 respectively instructing the Petitioner to report back for duty. For the letter under Ex. W13 the Petitioner has sent a reply under Ex. W14 dated 4-4-95 that he would report for duty on 20-4-95. Even on that day, he had not reported for duty. But he sent a letter dated 14-6-95 under Ex. W19 requesting the bank management to treat his absence as leave on loss of pay. So only on the basis of all these reply, and attitude of the Petitioner by remaining absent for duty in spite of the instructions given by the bank management to report for duty, the bank came to a conclusion that the Petitioner had no intention to report to duty and hence, passed an order dated 20-6-95 under Ex. W20. Further, from his evidence it is clear that he has no intention to join duty in the pretext of ill health and taking treatment but found it convenient to be away at Delhi as an office bearer of the Union, to attend the union activities. Under such circumstances, his contention that he was under mental depression and unable to come back for duty cannot be accepted as correct and proper reason he has given for his absence for duty. Furthermore, he has not chosen to establish with acceptable supporting evidence and by subjecting himself for medical examination by the competent medical board. From this it is evident that he was not willing to report for duty and he was also not given satisfactory explanation for not reporting for duty. The reply that has been submitted by the Petitioner, to the bank's intimation with the instruction to him to report for duty, was found to be unsatisfactory by the bank management and it is evident from the evidence of the Petitioner as WW1 before this Tribunal. The clause available in the Bipartite Settlement as 17 (a) relating to voluntarily cessation of employment by the employer has been dealt with by the Hon'ble Supreme Court in a case reported as (2000) 5 SCC 65 SYNDICATE BANK Vs. GENERAL SECRETARY SYNDICATE BANK STAFF ASSOCIATION AND ANOTHER. On a similar facts of this case the Supreme Court was pleased to hold in the above cited case that "the bank held rightly treated the employee who have voluntarily retired from the service and hence termination of the services of the employee without holding any departmental enquiry was not violative of principles of natural justice". So this decision of the Supreme Court is squarely applicable to this case also. In another case reported as 2001 1 LLN 738 between PUNJAB & SIND BANK AND OTHERS and SAKATTAR SINGH, the Hon'ble Supreme Court has held that "the unauthorised absence of the employee in the bank from duty for 90 or more consecutive days beyond sanctioned leave Bipartite Settlement between bank and its employees based on Sastri

Award providing that in such circumstances, bank should give notice calling on employee to report for duty and if, within 30 days employee does not report for duty or offer satisfactory explanation, he should be deemed to have voluntarily retired and that it is not a punishment for misconduct but only a recognition of realities of situation and does not result in violation of principles of natural justice." So from the available records in this case, it has been established that the action taken by the Respondent/Bank Management by passing an order under Ex. W 20 dated 20.6.95 by invoking the clause under Bipartite Settlement for voluntary cessation of employment by the Petitioner is correct and justified one. As it is contended by the learned counsel for the Respondent/Management the said decision has been taken by the Respondent/Bank management after the management getting satisfied with regard to the conduct of the Petitioner that he was not keen on reporting for duty. The said cessation was brought out by the Petitioner himself by his own conduct, in spite of prior notices have been given by the bank management directing him to report for duty. Further from the reply of the Petitioner himself, discloses that he is not very much interested in reporting for duty as per the direction of the Respondent/Bank management, but he had asked for extension of leave and a posting to near by branch as and when he gets well. This enables the bank management to draw an inference that the Petitioner is not keen in joining duty and to invoke clause 17(a) of Bipartite Settlement to treat the absence of the Petitioner for duty as one of deemed voluntary retirement. So under such circumstances, there is no scope for this Tribunal to interfere with the decision of the bank by invoking the discretionary powers of this Tribunal under section 11A of Industrial Disputes Act, 1947 because the conduct of the Petitioner himself has led to his cessation of employment by which it can be a deemed voluntary retirement from bank's service. Under such circumstances, it can be held that the action of the Respondent/Bank Management is justified in passing an order against the Petitioner/Workman Sri Joseph Wilfred on 20-6-1995 deeming it as the Petitioner had voluntarily retired from bank's service on his own accord w.e.f. 16-6-1995. Hence, concerned workman is not entitled for any relief. Thus, the point is answered accordingly.

9. In the result, an Award is passed holding that the concerned workman Sri Joseph Wilfred is not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 3rd December, 2002.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :—

For the I Party/Workman : WW1 Sri Joseph Wilfred
For the II Party/Management : MW1 Sri. V. C. Ramachandran, MW 2 Sri N. Balakrishnan

Documents Exhibited:—

For the I Party/Workman:—

Ex. No.	Date	Description	Ex. No.	Date	Description
			W16	16-05-95	Original prescription issued to the Petitioner by Dr.T.N.Srinivasan.
W1	Nil	Xerox copy of the leave application submitted by the Petitioner along with medical certificate.	W17	16-05-95	original letter from Respondent/ Bank to Petitioner Regarding notice of voluntary retirement.
W2	02-05-94 09-05-94	Medical prescription of the Petitioner issued by Dr. T. N.Srinivasan.	W18	Nil	Original SB staff statement from 1-1-95 to 9-11-95.
W3	18-07-94	Xerox copy of the medical certificate and original. Postal receipt for sending medical certificate to Respondent.	W19	14-06-95	Xerox copy of the letter from Petitioner to Chief Officer of Respondent/Bank requesting to treat his absence as Period of sick leave on loss of pay.
W4	30-05-94	Salary slip of the Petitioner for May, 1994.	W20	Nil	Xerox copy of the envelope sent by registered post to Petitioner by Respondent/Bank.
W5	29-06-94	Salary slip of the Petitioner for June, 1994.	W21	29-06-95	Original letter from Respondent/ Bank to Petitioner Regarding staff pension scheme.
W6	30-12-94	Letter issued by Respondent/Bank to Petitioner For un-authorised absence.	W22	13-02-98	Xerox copy of the letter from Petitioner to Regional Labour Commissioner raising an industrial dispute.
W7	20-02-95	Letter issued by Dean, Govt. Hospital to Petitioner.	W23	23-05-98	Xerox copy of the letter from Respondent/Bank to Assistant Labour Commissioner (Central) in the Petitioner's dispute.
W8	04-03-95	Letter from the Petitioner to Respondent/Bank regarding medical examination.	W24	13-07-98	Xerox copy of the Petitioner's rejoinder submitted to Assistant Labour Commissioner (Central).
W9	28-07-94	Salary slip of the Petitioner for July, 1994.	W25	29-08-98	Typed copy of failure of conciliation report submitted to Assistant Labour Commissioner (Central).
W10	30-11-94	Copy of Income tax declaration form for 1994-95.	W26	Nil	Extract of clause 17 of Bipartite Settlement dt. 10-4-89.
W11	21-11-94	Medical report issued by Dr. Sandeep Saluja to the Petitioner.	W27	01-10-90	Call letter from Chief Officer, Central Office to Petitioner for Promotion from clerical cadre to officer cadre.
W12	01-11-94	Xerox copy of the medical certificate issued in favour of Petitioner by Dr. T. N. Srinivasan.	W28	19-02-94	No objection certificate issued by Respondent/Bank to Petitioner.
W13	18-03-95	Original letter from Respondent/ Bank to Petitioner regarding Unauthorised absence.	W29	14-09-94	Letter from Respondent/Bank to Petitioner regarding Vehicle loan 12/90 inspection.
W14	04-04-95	Copy of letter from Petitioner to Asst. General Manager Acknowledging receipt of letter dated 18-3-95.	W30	25-03-85	Xerox copy of the letter from Respondent/Bank to Petitioner Regarding his transfer to Central Office.
W15	17-05-95	Xerox copy of the medical certificate issued in favour of Petitioner by Dr. T. N. Srinivasan.			

Ex. No.	Date	Description	Ex. No.	Date	Description
W32	series Nil	Salary slips of the Petitioner 29 in Nos.	M5	28-07-94	Xerox copy of the memo from Printing & Stationery Deptt. to Personnel Admn. Department, Central Office of Respondent/Management.
W33	22-04-93	Discharge summary of the Petitioner			
W34	series Nil	Test reports of the Petitioner 8 in Nos.	M6	6-10-82	Leave record of the Petitioner from 1-1-81 to 4-10-82.
W35	26-06-92	Medical report of the Petitioner issued by Dr. K. V. Thiruvengadam.	M7	24-3-84	Xerox copy of the letter from Meenambakkam branch To Central Office of Respondent/Bank.
W36	02-07-92	Prescription issued to Petitioner by cardiologist.	M8	4-5-84	Xerox copy of the letter from the Respondent/Management To Petitioner.
W37	series Nil	Application for reimbursement of medical expenses.	M9	23-5-84	Xerox copy of the letter from Petitioner to Respondent/Bank.
W38	Nil	S.B. Staff statement from 2-7-93 to 20-8-93.	M10	23-8-84	Xerox copy of the letter from Meenambakkam branch to Central Office of Respondent/Bank
W39	series Nil	Calendar for 1992 and 1993 showing leave balance of Petitioner.	M11	Nil	Xerox copy of the statement of leave particulars of Petitioner from 28-11-91 to 31-12-94
W40	28-7-94	Statement of leave particulars of Petitioner.	M12	21-03-02.	Leave record of the Petitioner from October, 1994 to July, 1994.
W41	Nil	Statement showing leave balance of Petitioner for 1994.	M13	Series Nov. 94 to June. 95	Entries in the attendance register for the days the Petitioner attended the work.
W42	9-4-92	Xerox copy of the letter from Respondent/Bank to Petitioner Sanctioning privilege leave.	M14	Nil	Extract of Leave rules from Bipartite Settlement.
W43	2-2-85	Xerox copy of the letter from Asst. General Manager	M15	19-1-87	Xerox copy of the circular sent by central office to all departments at Central Office regarding leave.
W44	24-10-92	Xerox copy of the letter from Respondent/Bank to Petitioner Regarding show cause notice	M16	Nil	Xerox copy of the statement of leave record of Petitioner.
W45	16-8-89	Xerox copy of the letter from Indian Bank Association to its members regarding clarification of 5th Bipartite Settlement.	M17	1991 to July, 1994	Xerox copy of the consolidated statement of Petitioner as per the leave register.
For the II Party/ Management:-					
Ex. No.	Date	Description.			
M1	8-12-92	Xerox copy of the order of Disciplinary Authority.			
M2	14-1-92	Xerox copy of the charge sheet.			
M3	28-1-92	Xerox copy of the letter from Petitioner to Disciplinary Authority.			
M4	24-10-92	Xerox copy of the show cause notice issued to Petitioner.			

नई दिल्ली, 14 जनवरी, 2003

का. आ. 481.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ोदा के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 581/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-1-2003 को प्राप्त हुआ था।

[सं. एल-12011/15/2001-आई आर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 14th January, 2003

S.O. 481.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 581/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workman, which was received by the Central Government on 13-1-2003.

[No. L-12011/15/2001-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 5th December, 2002

PRESENT : K. KARTHIKEYAN,
Presiding Officer

INDUSTRIAL DISPUTE NO. 581/2001

[In the matter of the dispute for adjudication under clause (d) of Sub-Section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Workman Sri S.S. Rajan and the Management of Bank of Baroda, Coimbatore.)

BETWEEN

The General Secretary, : I Party/Claimant
Bank of Baroda Employees
Union, Chennai.

AND

The Assistant General : II Party/Management
Manager, (T.N. II)
Bank of Baroda, Coimbatore.

APPEARANCE:

For the Claimant : M/s. Row & Reddy,
Sri W. T. Prabhakar &
V. Govardhanan,
Advocates.
For the Management : M/s. K.S.V. Prasad &
P. Bhaskaran, Advocates.

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2 (A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No. L-12011/15/2001/IR(B-II) dated 26.04.2001.

On receipt of the order of reference from the Government of India, Ministry of Labour, this case has been taken on file as I.D. No. 581/2001 and notices were sent to the parties to the dispute by registered post, with a direction to appear before this Tribunal on 1.6.2001 to file their respective Claim Statement and Counter Statement and to prosecute this case further. Accordingly, learned counsel on record on either side have filed their respective claim statement and counter statement.

Upon perusing the Claim Statement, Counter Statement, documents let in on the side of the I Party/Claimant alone, the other material papers on record, after hearing the arguments advanced by the learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

“Whether the action of the management of Bank of Baroda in removing Shri S.S. Rajan from the bank's services is legal and justified? If not, what relief is the workman entitled to?”

2. The averments in the Claim Statement filed by the 1 Party/Claimant Bank of Baroda Employees Union (hereinafter refers to as Petitioner) are briefly as follows :—

The Petitioner Union has raised this industrial dispute espousing the cause of the concerned workman Sri S.S. Rajan, who was a member of the Union for his removal from service w.e.f. 17.12.98 by the Respondent/Bank Management Bank of Baroda. The concerned workman Sri S.S. Rajan joined the services of the Respondent/Bank as a Clerk-cum-Shroff on 30.1.82. Except for the incident in question, the employee's service is blemishless. On 01/03-2-1996 the concerned workman was issued a show cause notice alleging that he has committed certain irregularities. The concerned workman gave a detailed reply on 22.4.96. Not satisfied with the explanation, a chargesheet was issued on 5-5-97. The concerned workman was suspended on 12-11-96. The employee admitted all the charges except one under clause 19.12.(e) of Bipartite Settlement. The bank informed the employee orally that unless and until all the charges are accepted, there cannot be any question of confession under clause 19.12.(e). Based on this, the employee admitted all the charges under the aforesaid clause on 31-12-87. Notwithstanding the

admission under clause 19.12(e) the bank initiated departmental proceedings. Even in the domestic enquiry the employee admitted the charges under clause 19.12(e). The bank neither examined any witness nor produced any documents to establish the charges in the domestic enquiry. The Enquiry Officer gave a finding on 20-3-98 that the charges are established. The Disciplinary Authority by an order dated 22-10-98 proposed to impose a punishment of dismissal from service in respect of all the charges except the charge relating to borrowings wherein stoppage of one increment for a period of one year was proposed. The employee was given an opportunity to appear for personal hearing on 6-11-98 by an order dated 2-11-98. Even in the personal hearing the employee admitted the charges under clause 19.12(e). The Disciplinary Authority by an order dated 17-12-98, imposed a punishment of removal from service with superannuation benefits. The concerned workman Sri S.S. Rajan filed an appeal dated 8-1-99 to the Appellate Authority, wherein he narrates the incident that led to his removal and stated that he admitted the charges under clause 19.12(e). The Appellate Authority by an order dated 4/5-11-1999 confirmed the order of the Disciplinary Authority. Challenging the removal order, the Petitioner Union raised a dispute and which is now referred for adjudication. When the employee admits his guilt under clause 19.12(e) of the Bipartite Settlement, the management cannot impose the capital punishment of removal/dismissal/discharge or compulsory retirement. The practice in the bank is to accept the voluntary confession under clause 19.12(e) and close the proceedings. That is the reason why the employee amended his admission dated 22-8-97 on 31-12-97 at the oral instruction of the bank. The Disciplinary Authority nowhere stated that they are not admitting the admission under clause 19.12(e) and in case, if the employee does not, it will be a voluntary admission and that he will face serious consequences. The Appellate Authority at least should have told the employee about this and remitted the matter to Disciplinary Authority to decide the matter on merits ignoring the admission of the employee under clause 19.12(e). The Enquiry Officer has proposed a stringent punishment to be imposed on the employee, which he has no *locus standi* to do. On this score alone, the punishment should go. The Bank ought to have established the charges without considering the admission under clause 19.12(e). If they want to rely upon the admission it can be only under clause 19.12(e) and not anything else. Admittedly there is no oral and documentary evidence produced in domestic enquiry to establish the charges. The Petitioner Union does not challenge the domestic enquiry, in which case the management is barred from establishing the charges by filing any documentary or introducing oral evidence in support of the charges. As per law, the management can lead fresh/additional evidence only if the domestic enquiry is set aside or questioned by the employee. Once, the domestic enquiry is not questioned by the Petitioner Union, there is no question of setting it at

naught. The past record of the employee is blemishless. If the management had the intention of imposing the capital punishment, they should have informed the employee about the nature of the punishment to be imposed on him without reference to clause 19.12(e) and that they are not accepting the admission under clause 19.12(e) and established the charges independently. The concerned workman Sri S.S. Rajan on receipt of removal order was tendered with terminal benefits and he has received the same without prejudice to his rights to question the illegal removal. In case, the Tribunal answers the reference in favour of the workman, the terminal benefits paid can be adjusted from his back wages and rest of the amount may be paid to him. Therefore, it is prayed that this Hon'ble Tribunal may be pleased to hold that the action of the management of Bank of Baroda in removing the concerned workman Sri S.S. Rajan w.e.f. 17-12-98 is not justified and consequently direct the Respondent/Bank to reinstate the concerned workman in service w.e.f. 17-12-98 with back wages, continuity of service and other attendant benefits.

3. The averments in the Counter Statement filed by the II Party/Management Bank of Baroda, Coimbatore, (hereinafter refers to as Respondent) are briefly as follows :—

The Respondent denies that the said S.S. Rajan was a member of the Petitioner Union, that his service was blemishless, that the bank informed the employee orally that unless all the charges are accepted, there cannot be any question of confession, that based on this, the employee admitted all the charges, that when the employee admits his guilt under clause 19.12(e) of Bipartite Settlement the management cannot impose punishment or removal etc. that the practice in the bank is to accept the voluntary confession under clause 19.12(e) and close the proceedings, that the Appellate Authority should have told the employee about not admitting the admission and remitted the matter, the punishment should go as the Enquiry Officer proposed a punishment, that the bank ought to have established the charges without considering the admission that the management can lead additional evidence only, if the domestic enquiry is questioned by the employee, that there is no oral or documentary evidence in the enquiry, that the management should have informed the employee about the nature of punishment, and that the employee received the terminal benefits without prejudice to his right to question the order of removal. The concerned workman Sri S.S. Rajan joined the bank's service on 30-1-82 at Tuticorin branch. Thereafter at his request, he was transferred to Mannadimangalam later to Ponmeni, Madurai and Tanjore. While he was working in Tanjore branch, the concerned workman was transferred to Aravakurichi by the Respondent/Bank on the ground that he had committed some irregularities in the department in which he was working. He reported at Aravakurichi branch during January 1996. During February 1996 a show cause notice dated 01/03-02-1996 was served upon him asking him to explain the circumstances under which he committed the alleged

irregularities. On 22.4.96 a reply was submitted by the employee in response to the said show cause notice inter-alia, requesting the management to drop further proceedings and admitting the allegation of borrowing from a customer of Ponmeni branch. The Respondent/Bank by a letter dated 26/28.09.96 asked him to explain the reasons for receiving various amounts from a customer of Tanjore branch. He submitted his reply on 22.10.96 admitting his delinquency of borrowing. On 19.11.96 he was suspended by a letter dated 12.11.96 pending departmental enquiry in the matter of alleged irregularities purported to have been committed while he was working at Tanjore branch. The Respondent/Bank by a letter dated 5.5.97 served upon him a charge sheet. The employee offered his reply by letter dated 22.8.97 under the provisions 19.12(e) of Bipartite Settlement i.e. voluntary confession. The charges in the charge sheet are briefly that while he was working at Tanjore branch fictitious credit entries were made in Term Loans dated 7.12.94 for Rs. 5,000/-, on 25.1.95 for Rs. 10,000/-, on 12.6.95 for Rs. 10,000/-, on 15.7.95 for Rs. 5,000/- and in Savings Bank account of Mr. Durairaj an entry for Rs. 1000/- was made on 5.7.1995. He intercepted and destroyed the debit advices sent from Ponmeni to Tanjore branch representing debits on account of Bank of Baroda card Charge Slips. Records of the bank branch were destroyed and damages were caused to the property/records of the bank, a wilful damage or attempt to cause damage to the property/records of the bank/branch was made. On 26.3.98 Disciplinary Authority forwarded a copy of the Enquiry Officer's report with a letter to the charge sheeted employee and sought his views, if any. Accordingly, the employee submitted his views in his letter dated 6.4.98 stating that he had already submitted a letter of voluntary confession under section 19.12(e) on 31.12.97 and requested the Disciplinary Authority to accept his voluntary confession and take a lenient view in the matter. The concerned workman submitted an appeal on 8.1.99 to the Appellate Authority and Deputy General Manager. The Appellate Authority gave a personal hearing on 5.4.99 in which both the defence representative and the charge sheeted employee emphasized the contents of the employee's appeal letter dated 8.1.99. The Appellate Authority after considering all the aspects of the employee's confession letter dated 31.12.97 disposed of the appeal confirming the order of the Disciplinary Authority. Even in the enquiry proceedings held on 18.3.98 the said fact was recorded. The charge sheeted employee has admitted all the charges before the Enquiry Officer and based on such admission, the Enquiry Officer has given his findings. Even at this juncture, he had the option to deny the charges which option he has not exercised. Proper departmental enquiry was conducted and punishment was awarded based only on the strength of the findings of the Enquiry Officer. Without prejudice to its right of defence and the aforesaid contentions, the Respondent/Bank craves leave of this Hon'ble Court to lead additional evidence to support its

action and prove the delinquency of the Petitioner before this Hon'ble Court in the event of its coming to conclusion that the enquiry was not properly conducted or initiated for any reason. Therefore, it is prayed that this Hon'ble Tribunal may be pleased to dismiss the claim in the industrial dispute.

4. When the matter was taken up for enquiry finally, no one has been examined as a witness on either side. 24 documents filed on the side of the I Party/Claimant were marked by consent as Ex.W1 to W24. No document has been marked as an exhibit on the side of the II Party/Management. The arguments advanced by the learned counsel on either side were heard.

5. The point for my consideration is —

"Whether the action of the management of Bank of Baroda in removing Shri S.S. Rajan from the bank's services is legal and justified? If not, what relief is the workman entitled to?"

Point :—

The I Party/Claimant Bank of Baroda Employees Union, Chennai has raised this industrial dispute on behalf of the concerned workman Sri S.S. Rajan challenging the action of the Respondent/Bank management in removing the concerned workman from the bank service as illegal and unjustified. The I Party/Union as Petitioner has filed 24 documents as Xerox copies pertaining to this dispute and they have been marked by consent of the counsel on other side as Ex. W1 to W24. The concerned workman when he was working in the Tanjore branch of the Respondent/Bank was transferred to Aravakurichi on the ground that he had committed some irregularities in the department in which he was working. A show cause notice dated 1/3.2.1996 was issued to him alleging that he has committed some irregularities. The xerox copy of that show cause notice is Ex.W1. For that the concerned workman has submitted his reply dated 22.4.96 inter-alia requesting the Respondent/Management to drop further proceedings and had admitted that he borrowed a sum of Rs. 44,000/- from a customer Mr. Narayanan of Ponmeni branch and he will repay the same. The xerox copy of his reply is Ex.W2. Then the Respondent/Management sent a letter dated 26/28.9.96 asking the concerned workman to explain the reasons for receiving various amounts from a customer of Tanjore branch. The xerox copy of that letter is Ex.W3. The concerned workman has submitted his reply dated 22.10.96 by making an admission stating that due to compelling domestic circumstances, he was forced to borrow from a cash credit account holder of Tanjore branch at that time and the same were repaid. Then the concerned workman was suspended from service on 12.11.96 pending departmental enquiry by an order dated 12.11.96 issued by Respondent/Management. The xerox copy of the same is Ex. W5. Then the Respondent/Management issued the concerned workman a charge sheet dated 5.5.97. The xerox

copy of the same is Ex. W6. The concerned workman has submitted his reply dated 22.8.97 stating that he voluntarily confess under section 19.12(e) of Bipartite Settlement in respect of first five charges and the charge No. 6 is without any basis. He would further admit in that reply that with regard to item No. 7 due to abnormal medical expenses incurred for the treatment given to his mentally retarded brother, he had to borrow a sum of Rs. 44,000/- from Mr. Narayanan, it cannot be considered as an excessive borrowing. The xerox copy of that reply is Ex. W7. Then again the concerned workman has sent a letter dated 8.9.97 stating that in view of his submission under section 19.12(e) the question of conducting any enquiry proceedings does not arise. The xerox copy of that letter is Ex. W8. Then the Enquiry Officer appointed by the Respondent/Management has conducted an enquiry in the presence of the Presenting Officer as well as the charge sheeted employee. The xerox copy of the preliminary enquiry proceedings dated 8.9.97 is Ex. W9. It is seen from Ex. W9 that the Enquiry Officer has informed the concerned workman charge sheeted employee on that day that after consultation with AGM further course of action in respect of enquiry proceedings will be decided and would be instructed. Accordingly, a communication dated 4.10.97 was sent to the concerned employee directing him to appear before the Enquiry Officer for the hearing on 14.10.97. The xerox copy of that letter is Ex. W10. Then again a communication dated 24.9.97 was sent by Enquiry Officer to the concerned workman stating that as he has not accepted the entire charges, it has been decided to conduct the enquiry proceedings and the concerned workman has to appear for the enquiry posted on 14.10.97 at Tanjore branch. The xerox copy of that letter also has been filed by the Petitioner along with other documents. Then the concerned workman by letter dated 31.12.97 informed the Disciplinary Authority that with reference to charge memo dated 5.5.97 he wants to submit that he voluntarily confess under section 19.12(e) of Bipartite Settlement and requested the Disciplinary Authority to close the enquiry proceedings. The xerox copy of that letter is Ex. W11. Ex. W12 is the xerox copy of the enquiry proceedings dated 18.3.98. It is signed by the Enquiry Officer, Presenting Officer and the charge sheeted employee. In that proceedings, the Enquiry Officer has recorded that charge sheeted employee now agree to having committed all the 1 to 7 charges framed against him and submitted a xerox copy of the letter dated 31.12.97 addressed to Disciplinary Authority voluntarily confessing under section 19.12(e) of Bipartite Settlement on charges 1 to 7 framed against him. Ex. W13 is the xerox copy of the enquiry report. In that report, the Enquiry Officer has given a finding that the charge sheeted employee did not seek the benefits under section 19.12(e) by voluntarily confessing to all the charges before the commencement of the preliminary hearing itself and that by his letter dated 22.8.97 he confessed in respect of charges 1 to 5 and refused to accept the charges 6 and 7 framed against him, but all the charges levelled against the charge sheeted employee

in the charge sheet dated 5.5.97 have been admitted by the charge sheeted employee in total and he sought benefits under section 19.12(e) of Bipartite Settlement and has given a finding that charge sheeted employee himself has confessed to all the charges 1 to 7 and thus, all the charges stand proved. Then the Disciplinary Authority by an order dated 26.3.98 directed the charge sheeted employee to make his representation within a period of 15 days on the findings given by the Enquiry Officer in his report, which is enclosed therein. A xerox copy of that order is Ex. W14. Ex. W15 is the xerox copy of the written submission made by the concerned workman to the Disciplinary Authority. Then the Disciplinary Authority passed an order dated 22.10.98 mentioning the proposed punishment of dismissal from bank service for his misconduct of tampering the records of the branch and making unauthorised alterations and corrections and for destroying the records of the bank and thereby causing damage to the property/records of the bank and imposing a punishment of stoppage of one increment for a period of six months for his misconduct of incurring debts to an extent considered by the bank as excessive. The xerox copy of that order is Ex. W16. Ex. W17 is the xerox copy of the order dated 2.11.98 given in partial modification of the earlier order dated 22.8.98 for the proposed punishment. By this order, he has modified the proposed punishment of dismissal from bank service to that of removal from bank service with superannuation benefits as would be due otherwise at that stage and without disqualification from future employment. Ex. W18 is the xerox copy of the written submissions made by the concerned workman to the Disciplinary Authority, wherein he prayed the Disciplinary Authority to take a lenient view of the lapses covered under the charge sheet and to impose any punishment lesser than removal from service. Ex. W19 is the minutes of personal hearing before the Disciplinary Authority of the concerned workman. Ex. W20 is the xerox copy of the final order dated 17.12.98 passed by the Disciplinary Authority wherein he had imposed the punishment of removal of concerned workman from bank service with superannuation benefits as would be due otherwise at that stage and without disqualification from future employment. Ex. W21 is the xerox copy of the appeal preferred by the concerned workman to Appellate Authority. Ex. W22 is the minutes of personal hearing before the Appellate Authority held on 5.4.99 at the Zonal Office, Chennai. Ex. W23 is the letter dated 11.11.99 sent by Assistant General Manager Head Office of the Respondent/Bank to the concerned workman enclosing order of the Appellate Authority dated 5.11.99. The Appellate Authority has dismissed the appeal by his order dated 5.11.99. Ex. W24 is the xerox copy of the letter dated 5.4.89 sent by the Manager of Manadimangalam branch to Petitioner informing him that his request to transfer him one of the branches in Madurai has been considered by higher authorities and orders had been passed for transferring him to Ponmeni branch at Madurai and he will be relieved at the close of office hours on 8th April, 1989.

6. The learned counsel for the Petitioner Union would contend that when the employee admits his guilt under clause 19.12(e) of Bipartite Settlement the management cannot impose the capital punishment of removal/dismissal/discharge or compulsory retirement and the Disciplinary Authority has not stated that he is not admitting the admission of the chargesheeted employee under clause 19.12(e) and that the Appellate Authority could have told the chargesheeted employee about this and remitted the matter to the Disciplinary Authority to decide the matter on merits ignoring the admission of the employee under clause 19.12(e) and that the bank ought to have established the charges, without considering the admission under clause 19.12(e) and that when there is no oral or documentary evidence produced in the domestic enquiry, to establish the charges and the Petitioner Union does not challenge the domestic enquiry and in which case, the management is barred from establishing the charges by filing any documentary or introducing oral evidence in support of the charges and the management can lead fresh/additional evidence only when the domestic enquiry is set aside or questioned by the employee and as there is no oral or documentary evidence in the domestic enquiry to establish the charges, and if the management had intention to impose capital punishment, they should have informed the employee about the nature of the punishment to be imposed on the chargesheeted employee without reference to clause 19.12(e) stating that they are not accepting the admission under clause 19.12(e). It is admitted that the concerned chargesheeted employee on receipt of the removal order was tendered with terminal benefits and he has received the same. But it is contended that he has received the same without prejudice to question the illegal removal. For that there is no materials placed before this Tribunal.

7. The learned counsel for the Respondent/Management would contend that the Respondent/Management alone can invoke the provisions of clause 19.12 (e) to give punishment without holding enquiry and the employee cannot invoke it. As it is contended by the learned counsel for the Respondent/Management, it is seen from records that the concerned employee had first admitted only five out of the seven charges and the last two charges have not been accepted by him and that the Respondent/Bank has proposed to conduct enquiry, since the chargesheeted employee has not admitted all the charges and only in the enquiry the chargesheeted employee admitted orally before the Enquiry Officer that he is admitting all the seven charges. It is his further contention that only the bank management can make up its mind to the effect that it would not award the punishment of discharge or dismissal even the misconduct is proved and thereafter, it should issue a notice to the employee advising him of the misconduct and punishment therefor, and only on receipt of and in reply to such a notice, the employee can make

voluntary admission and hope for the imposition of only that punishment which was mentioned in the notice. When such steps have not been taken in this case, it cannot be contended that the employee had made admission under clause 19.12 (e) or the bank had accepted the confession. It is seen from the facts of this case, the bank merely informed the chargesheeted employee that as he had not admitted all the charges, it had to proceed with the enquiry. As per the judgement of the Hon'ble Supreme Court *'when the chargesheeted employee admits the charges the empty formality of enquiry can be dispensed with.'* It is seen from records that in enquiry the charge sheeted employee had admitted all the charges orally and unequivocally as is seen from the Enquiry Officer's report. Hence, without invoking clause 19.12(e) and independent of it, the bank acted upon this oral admission. Moreover, in his letters, the employee admitted his delinquencies. He would further contend that as it is decided by Supreme Court in the cases reported as AIR 1968 SC 266, AIR 1972 SC 32 and AIR 1968 SC 236, "the bank can accept and act upon any admission independent of clause 19.12(e) also." Here in this case, in the counter itself, the Respondent/Management sought permission to lead additional evidence to support its action and to prove the delinquency of the Petitioner before this Tribunal, in the event of its coming to conclusion that the enquiry was not properly conducted or initiated for any reason. In the Claim Statement itself, the Petitioner Union has stated that they have not challenged the conduct of the enquiry. Under such circumstances, when the employee did not categorically state that his admission should be considered and acted upon only if clause 19.12(e) is invoked, it is irrelevant or immaterial that his admissions to be considered only under clause 19.12(e) by the Respondent/Management. Further, in this case, by oral admission before the Enquiry Officer made by the chargesheeted employee, it is unequivocal and clear that he has accepted all the charges which enabled the Enquiry Officer to give a finding that all the charges against the concerned workman have been proved and subsequently the same has been acted upon by the management through Disciplinary Authority as well as Appellate Authority. Hence, it cannot be said that the action of the management Bank of Baroda in removing the concerned workman from service is illegal and unjustified.

8. A perusal of the entire records clearly shows that the arguments advanced by the learned counsel for the Respondent/Management can be acceptable as correct and the decisions of the Supreme Court, he has relied upon, are very much supporting his contention. Under such circumstances, it is held that the action of the management of Bank of Baroda in removing the concerned workman Sri S.S.Rajan from the bank service is legal and justified. Hence, the concerned workman is not entitled for any relief. Thus, the point is answered accordingly.

9. In the result, an Award is passed holding that the concerned workman Sri S.S.Rajan is not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 5th December, 2002.)

K. KARTHIKEYAN, Presiding Officer.

Witnesses Examined:—

On either side : None

Documents Exhibited:—

For the I Party/Workman

Ex. No.	Date	Description
W1	01/03-02-96	Xerox copy of the show cause notice issued to Petitioner.
W2	22-04-96	Xerox copy of the letter from the Petitioner to Assistant General Manager, Bank of Baroda Coimbatore.
W3	26/28.09.96	Xerox copy of the memo issued by Assistant General Manager to Petitioner calling for explanation.
W4	22.10.96	Xerox copy of the reply given by Petitioner to Assistant General Manager.
W5	12-11-96	Xerox copy of the order issued by Assistant General Manager to the Petitioner.
W6	05-05-97	Xerox copy of the chargesheet issued to Petitioner.
W7	22-08-97	Xerox copy of the letter from the Petitioner to Disciplinary Authority.
W8	08.09.97	Xerox copy of the letter from the Petitioner to Enquiry Officer.
W9	08-09-97	Xerox copy of the enquiry proceedings.
W10	04-10-97	Xerox copy of the letter from Branch Manager to Petitioner with regard to departmental enquiry.
W11	31-12-97	Xerox copy of the letter from Petitioner to Disciplinary Authority.
W12	18-03-98	Xerox copy of the enquiry proceedings.
W13	20-03-98	Xerox copy of the enquiry report.
W14	26.03.98	Xerox copy of the order passed by Disciplinary Authority.
W15	06-04-98	Xerox copy of the letter from the Petitioner to Disciplinary Authority.

W16	22-10-98	Xerox copy of the order from the Disciplinary Authority to Petitioner.
W17	02-11-98	Xerox copy of the modified order passed by Disciplinary Authority against the Petitioner
W18	01-12-98	Xerox copy of the letter from Petitioner to Disciplinary Authority
W19	01-12-98	Xerox copy of the minutes of personal hearing.
W20	17-12-98	Xerox copy of the final order passed by Disciplinary Authority against the Petitioner.
W21	08-1-99	Xerox copy of the appeal preferred by Petitioner to Appellate Authority
W22	5-4-99	Xerox copy of the minutes of personal hearing.
W23	11-11-99	Xerox copy of the letter from Assistant General Manager to Petitioner enclosing the order of Appellate Authority
W24	5-4-89	Xerox copy of the order passed by Appellate Authority Against the appeal of the Petitioner

For the II Party/Management : Nil

नई दिल्ली, 14 जनवरी, 2003

का. आ. 482.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय लखनऊ के पंचाट (संदर्भ संख्या 103/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-1-2003 को प्राप्त हुआ था।

[सं. एल-12012/23/2002-आई. आर. (बी.-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 14th January, 2003

S.O. —In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.103/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workman, which was received by the Central Government on 13-01-2003.

[No. L-12012/23/2002-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
CUM LABOUR COURT, LUCKNOW****PRESENT**

RUDRESH KUMAR, PRESIDING OFFICER

I.D. No. 103/2002

Ref. No. L-12012/23/2002-IR (B--II) dated 21-5-2002

BETWEEN

Arun Kumar Pandey, S/o Sh. B.R. Pandey, through Shri
Tripathi, House No. K-539/125, Sanjay Gandhi Puram,
Lucknow-226001

AND

Syndicate Bank, Dy. General Manager, SB, Zonal Office,
43/28 Naval Kishore Road, Skylark III rd Floor
Lucknow-226001

AWARD

By order No. L-12012/23/2002-IR (B-II) dated 21-5-2002, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of Sub-Section (1) and Section 2(A) of section 10 of the I.D. Act, 1947 (14 of 1947) referred this industrial dispute between Arun Kumar Pandey S/o Sh. B.R. Pandey, through Shri Tripathi, House No. K. 539/125, Sanjay Gandhi Puram, Lucknow and the Syndicate bank, Dy. General Manager, SB, Zonal Office, 43/28 Naval Kishore Road, Skylark III rd Floor, Lucknow (U.P.) for adjudication.

The reference under adjudication is as under :

“Whether the action of the Management of Syndicate Bank in dismissing Shri Arun Kumar Pandey w.e.f. 31-05-1999 is legal and justified? If not, what relief the concerned workman is entitled to?”

2. This industrial case was registered on 14-6-2002 on receiving reference from the Central Government. Notices were issued to the parties fixing 1-8-2002. In compliance of the notices the workman, Arun Kumar Pandey, appeared in person on 1-8-2002. He requested for time to file claim statement which was allowed, fixing 3.9.2002. He absented on this date. Notices were issued repeatedly on 8.10.2002, 13.11.02 and finally on 15-11-2002. Despite these notices, the workman did not put appearance nor did the file claim statement till today. The postal endorsement indicates that the workman does not reside on the given address.

3. Thus, in absence of claim statement, further adjudication proceedings can not be processed and there is no alternative but to close the case by ‘No Claim Award’.

4. The award is as above.

LUCKNOW

8.1.2003

RUDRESH KUMAR, Presiding Officer,

नई दिल्ली, 15 जनवरी, 2003

का. आ. 483.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार देना बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ श्रम न्यायालय लखनऊ के पंचाट (संदर्भ संख्या 95/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-1-2003 को प्राप्त हुआ था।

[सं. एल-12011/31/2001-आई आर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 15 th January, 2003

S. O. 483.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.95/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Dena Bank and their workman, which was received by the Central Government on 14-01-2003.

[No. L-12011/31/2001-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT LUCKNOW****PRESENT**

RUDRESH KUMAR, PRESIDING OFFICER

I.D. No. 95/2001 Ref: No.: L-12011/31/2001/IR(B-II)
dated: 13.6.2001

BETWEEN

The Secretary, Dena Bank Staff Association, U.P., 11,
M.G. Marg, Lucknow (U.P.) 226001 (espousing cause of
Ram Kripal)

AND

The Regional Manager, Dena Bank, 28-A, Praveen House,
Vidhan Sabha Marg, Lucknow (U.P.) 226001

AWARD

By order No. L-12011/31/2001/IR(B-II) dated 13.6.2001, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of Sub-section (1) and Section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between The Secretary, Dena Bank Staff Association, U.P., 11, M.G. Marg, Lucknow (U.P.) 226001 (espousing cause of Ram Kripal) and The Regional Manager, Dena Bank, 28-A, Praveen House, Vidhan Sabha Marg, Lucknow (U.P.) 226001 for adjudication.

The reference under adjudication is as under:

“Whether the action of Dena Bank, Lucknow was legal and justified in terminating from services of Ram Kripal, Peon from 18-4-1999. If not, what relief the workman is entitled to?”

2. During the course of proceeding the parties resolved their differences, without prejudice to their respective stand in their statement of claim and defence. The terms of Settlement is set out in the application of the Regional Manager dated January 7, 2003. The workman agreed on the said terms and conditions. Both the parties verified the terms before this Court.

3. In view of the settlement, the workman, Ram Kripal, will be treated continued on the last post held by him i.e. Cleaner as Casual Labour on consolidated wages of Rs. 750/- per month as per Bipartite Settlements (for work of more than 3 hours but less than 6 hours per week). Though, he will be treated continued on the last post held by him, but he will not be entitled to payment of back wages to which he agrees.

4. Thus, in view of the settlement between the parties, the dispute is adjudicated in terms of the settlement as is set out in the application of the Regional Manager dated 7.1.2003. The workman will be treated Cleaner as Casual Labour on consolidated wages of Rs. 750/- per month as per Bipartite Settlements and will be entitled to receive payment from the date of his joining duties. He will not be entitled to back wages. However, it is expected of the management to make necessary enhancement in wages to the workman as and when necessary and also as per future Bipartite Settlements and to consider other service benefits to him subject to his satisfactory performance.

Award as above. A copy of this order be made available to each of the parties free of cost.

LUCKNOW
9-1-2003

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 21 जनवरी, 2003

का. आ. 484.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इण्डियन ओवरसीज बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या 648/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-1-2003 को प्राप्त हुआ था।

[सं. एल-12012/255/1998-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 21st January, 2003

S.O. 484.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.648/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Overseas Bank and their workman, which was received by the Central Government on 17-01-2003.

[No. L-12012/255/1998-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday the 17th December, 2002

PRESENT:

K. KARTHIKEYAN, Presiding Officer

INDUSTRIAL DISPUTE No. 648/2001

(Tamil Nadu Principal Labour Court CGID No. 175/99)

[In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workman Sri S. Selvaraj and the Management of Indian Overseas Bank, Chennai.]

BETWEEN

Sri S. Selvaraj : I Party/Workman

AND

The Chairman-Cum- Managing Director, : II Party/Management
Indian Overseas Bank,
Chennai.

APPEARANCE:

For the Workman : Mr. C. R.
Chandrasekaran, &
N. Krishnakumar,
Advocates

For the Management : M/s. N.G. R. Prasad,
S. Satish Kumar,
Advocates

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the

concerned industrial dispute for adjudication vide Order No. L-12012/255/98/TR(B-II) dated 16-02-99.

This reference has been made earlier to the Tamil Nadu Principal Labour Court, Chennai, where the same was taken on file as CGID No. 175/99. When the matter was pending enquiry in that Principal Labour Court, the Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu Principal Labour Court to this Tribunal for adjudication. On receipt of records from that Tamil Nadu Principal Labour Court, this case has been taken on file as I.D. No.648/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 19.10.2001 with their respective parties and to prosecute this case further. Accordingly, the learned counsel on either side along with their respective parties have appeared and prosecuted this case further. The Claim Statement and Counter Statement of either side were filed earlier before the Tamil Nadu Principal Labour Court, Chennai, when the matter was pending there for adjudication.

Upon perusing the Claim Statement, Counter Statement, the documentary evidence let in on either side, the other material papers on record, the written arguments filed by the learned counsel for the II Party/Management and after hearing the arguments advanced by the learned counsel for the I Party/Workman, and this matter having stood over till this date for consideration, this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

“Whether the management of Indian Overseas Bank is justified in dismissing Sri S. Selvaraj, Clerk/Shroff Typist from the services of the bank w.e.f. 19-8-1994 and if not, to what relief the workman is entitled?”

2. The averments in the Claim Statement of the I Party/workman Sri S. Selvaraj (hereinafter refers to as Petitioner) are briefly as follows :—

The Petitioner is a workman employed in the II Party/Management Indian Overseas Bank having been appointed on 17-1-82 as clerk/shroff/typist after BSRB having found him qualified in all respects. He was working in Tiruvarur Branch of the bank, when the bank unfairly issued him a charge sheet cum suspension order on 10-4-93 on the basis of false information and complaint that one Mrs. Madeena Beevi, holder of SB account No. 12255 came to the branch for encashment of a cheque No. 393265 dt. 29-4-91 for Rs.1000 drawn on SBI, Tiruvarur in favour of Mrs. E. Fatimapurveen and at that time the Petitioner had mislead her that the cheque is crossed account payee and for collection of the same will take ten

days time and the Petitioner had arranged a sum of Rs.1000 to Mrs. Madeenabecvi from Mrs. Rasoolbeevee who is the account holder of SB 11195 and also the sister of Mrs. Madeenabheevi stating that the proceeds of the SBI cheque will be placed to her credit and the Petitioner had dishonestly and fraudulently collected the cheque through the current account of M/s. Lakshmi Stores and obtained payment of Rs. 1000 on 7-5-91 from the proprietary concern M/s. Sri Lakshmi Stores and misappropriated the amount. The bank had conducted a farce of an enquiry on 12-10-93, 24-3-94 and 25-3-94 and examined 5 witnesses besides 19 documents have been marked. When the management's case came to a close and the Petitioner did not offer himself as a witness, the Enquiry Officer should have generally questioned him about the evidence tendered by MW1 to MW5 and the documents introduced on behalf of the management. He did not do any such thing but simply accepted the evidence of the management witnesses. He did not seem to be concerned of the fact that the claimant was unfamiliar with the proceedings of the domestic enquiry and therefore, he did not cross examine any of the witness. This being so, although he Enquiry Officer is not supposed to take the mantle of a defence representative and cross examine them, he should have questioned them generally on their depositions in chief and on documents. the Disciplinary Authority and Appellate Authority have failed to notice the fact that the transaction was done in good faith and transparently without hiding anything and that he acted at the worst only as an agent to the account holder i.e. MW4 but not as an employee of the bank. This apart complaint ME 6 speaks about the non-payment of loan by him but not of any alleged dishonest or fraudulent collection of cheque and misappropriation thereof. If his intention was to cheat the customer he would have resorted to various other methods without involving himself directly but still would have got appropriated this sum to his benefit. The Petitioner belong to clerical cadre drawing monthly salary of around Rs. 5000. He has introduced many accounts to branch and other branches and have a good rapport with bank's clients. Still the bank has without considering his record, has chosen to dismiss him for his mere availment of loan of Rs.1000 from one of his family friends i.e. ME4 alleging that he had wilfully damaged the property of the bank and had acted prejudicial to the interest of the bank. The details of the transactions and the clauses invoked i.e. 17.5(d) and 17.5(j) of Bipartite Settlement dated 14-12-66 have no nexus. The Petitioner was not a member of the union and hence, he could not get the assistance of a defence representative and therefore, he had defended himself at the enquiry. AS he was not vested with the knowledge of defending himself in the enquiry, he could not point out the defective nature of conduct of enquiry violating the principles of natural justice. The entire episode is only a question of borrowing of Rs. 1000 from the sisters who are witnesses at the enquiry

and who happened to be his family friends which he could not repay earlier. Had it not been due to the fact that the Enquiry Officer /Disciplinary Authority has particular been bent upon handing him down with the order of dismissal, the Enquiry Officer/Disciplinary Authority as well as Presenting Officer would not have concocted the entire episode as if he sought to misappropriate the funds of the customers. The attitude of the Enquiry Officer and Disciplinary Authority and the Presenting Officer is evident as it could be seen from the letter supposed to have been written by MW4 marked at the enquiry as ME6 from the fact that this letter was asked to spoken to by MW5 who has nothing to do with it, thus violating the elementary principle that no document can be put to any witness who has not authored or received it. The Enquiry Officer had omitted to take into account the fact that the third party cheque i.e. the cheques drawn not in favour of the accountholder cannot be lodged in any SB account and that is why the cheque was lodged in the current account of M/s. Lakshmi Stores. Had he gone into this aspect atleast the fact that the transaction is nothing to do with misappropriation and that it was a case of borrowal which the Petitioner did not reportedly repay earlier. The depositions of MW 4 and 5 were recorded in English. Nowhere is there a statement at the enquiry that the depositions were read to MW4 and 5 in Tamil before securing their signatures in proceedings relating to their depositions. This is basic error and in violation of natural justice. Hence it is prayed that this Hon'ble Tribunal may be pleased to pass an award holding that the Respondent/Bank is not justified in dismissing the Petitioner from the services of the bank w.e.f. 19-8-94 and consequently direct the Respondent/Bank to reinstate the Petitioner into services of the bank with all attendant benefits.

3. The averments in the Counter Statement filed by the II Party/Management, Indian Overseas Bank, Chennai, (hereinafter refers to as Respondent) are briefly as follows :—

The Petitioner was employed as Clerk/Shroff/Typist in the Respondent/Bank. One Mrs. Madeena Beevi holder of SB Account No. 12255 came to Tiruvarur branch for encashment of cheque No.393265 dated 29-4-91 for Rs.1000 drawn on SBI Tiruvarur in favour of Ms. E. Fatima Parveen. At that time, Sri S. Selvaraj has misled her that the cheque is crossed 'account payee' and that collection of the same will take 10 days time. Sri S. Selvaraj had arranged a sum of Rs.1000 to Mrs. Madeena Beevi from Ms. Rasool Beevi, who was an account holder of SB A/c. No.11195 of the same branch and also the sister of Mrs. Madeena Beevi stating that the proceeds of the SBI cheque will be placed to her credit. Sri S. Selvaraj had dishonestly and fraudulently collected the said cheque through the current account of M/s. Sri Laxmi Stores. He also obtained the payment of Rs.1000 on 7-5-91 from the proprietary concern of M/s. Sri Laxmi

Stores and also misappropriated the amount. As the acts committed by Sri S. Selvaraj amounted to misconduct in terms of clause 17.5(d) and 17.5(j) of Bipartite Settlement dt. 14-12-66 between the bank and its workman, Sri S. Selvaraj was charge sheeted and suspended by the Disciplinary Authority on 10-4-93 and a charge sheet was issued to him on the said date. Sri S. Selvaraj did not submit any reply to the charge sheet. Hence, an enquiry into the charges was held on 12-10-93 when the dismissed employee appeared and received the list of documents and management witnesses. He took time from the Enquiry Officer to consult his union office bearers for naming a defence representative to defend him in the enquiry. At his request, the enquiry was adjourned. Subsequently, the enquiry was held on 24-3-94 and 25-3-94 and concluded. In the enquiry, 5 management witnesses were examined and 19 exhibits were marked on behalf of the management. The Petitioner Sri S. Selvaraj neither produced any witness nor any documents on his side. On conclusion of enquiry, the management as well as defence were given time to submit their written brief. The Presenting Officer submitted his written brief on behalf of the management and the Petitioner also submitted his defence brief. After going through the entire records of the case, the Disciplinary Authority found that all the charges levelled against the Petitioner were proved and therefore, he issued a show cause notice on 22-7-94 to him enclosing a copy of findings, and proposing to award the punishment of dismissal from bank service in terms of para 17.6(a) of the Bipartite Settlement dt. 14-12-66. The Petitioner was also given a personal hearing on 12-8-94. As the Disciplinary Authority found that all the charges were proved, he passed an original order dt. 19-8-94 awarding to Petitioner the punishment of dismissal from the bank service with immediate effect. The Petitioner preferred an appeal dated 5-9-94 against the order of Disciplinary Authority. The Appellate Authority also gave a personal hearing to the Petitioner on 31-10-94. After hearing the Petitioner and after going through the entire records of the case including written representation dated 31-10-94 submitted by the petitioner in the personal hearing, the Appellate Authority passed an order dated 10-11-94 dismissing his appeal. The punishment order dated 19-8-94 passed by the Disciplinary Authority and order dated 10-11-94 of the Appellate Authority confirming the order of the Disciplinary Authority are perfectly legal, valid and binding on the Petitioner. It is incorrect to state that the charge sheet issued to Petitioner was unfair and that the same was issued on the basis of false information and complaint. Investigation conducted by the bank into the matter revealed gross misconduct on the part of the Petitioner and hence the bank rightly issued the charge sheet cum suspension order on 10-04-93. The averment that the enquiry conducted by the bank on 12-10-93, 24-3-94 and 25-3-94 is farce is denied. The enquiry proceedings were held in a fair and proper

manner following all principles of natural justice. The Petitioner also did not let in any evidence to prove his contention that Rs. 1000/- mentioned under the charge sheet was only a loan taken from Mrs. Madeena Beevi. In the absence of any proof, it is not open to the Petitioner to take up such a stand. The so called theory of loan from Mrs. Madeena Beevi is only an afterthought. There was no question of truth being twisted by the Respondent/Management. There was also proof in the enquiry beyond all reasonable doubt that the Petitioner used the cheque without the knowledge of Mrs. Madeena Beevi. It is absolutely false to state that the complaint letter given by Mrs. Madeena Beevi was written by some bank official and the signature of Mrs. Madeena Beevi was obtained thereon. It was established in the enquiry from the evidence of witnesses on the management side and through documentary evidence that the Petitioner misappropriated the proceeds of the cheque. In the enquiry, Mrs. Madeena Beevi had given evidence categorically stating that the Petitioner while accepting the cheque for Rs. 1000/- drawn in favour of E. Fatima Parveen had assured to get it collected and place the amount to her credit in her SB account but he failed to do the same and misappropriated the amount. The alleged letter dated 25-2-98 said to have been given by Mrs. Madeena Beevi was never introduced in the enquiry and it also does not form part of enquiry proceedings. Hence no reliance can be placed on the same. It appears that the Petitioner prevailed upon Mrs. Madeena Beevi to give such letter to escape from the charges proved against him. The alleged letter is also an afterthought. No credence can be attached to the said letter as it was never introduced in the enquiry. At this stage, the said letter cannot be admitted in evidence. The proceedings of the enquiry would clearly establish that though adequate opportunity was given to the Petitioner to cross examine the witnesses on the management side, he chose not to cross examine them, which is evident from the depositions of the witnesses. After having failed to avail the opportunity, the Petitioner cannot at this late stage shift his duty on the Enquiry Officer to cross examine the witnesses. It is absolutely false to state that the Petitioner was unaware of the procedure of the enquiry. Nothing prevented the Petitioner to bring his own defence representative to cross examine the witnesses in the management side for which ample opportunity was given to him by the Enquiry Officer during the enquiry. It is denied that the past record of the Petitioner was not taken into consideration by the Disciplinary Authority while awarding the punishment. The Petitioner was previously charge sheeted on 19-3-92 and awarded the punishment of warning for committing various misconducts. He was awarded punishment of stoppage of 5 increments on 18-3-93 for committing serious misconduct. The Disciplinary Authority took all these into consideration while awarding the punishment of dismissal from service. Therefore, there are no justifiable

grounds to reinstate the Petitioner into bank's service. By misappropriating a sum of Rs. 1000/- belonging to customer, the petitioner has caused wilful damage to the property of the customer. Hence 17.5(d) is directly attracted. The bank employees are dealing with customers money and they should maintain honesty and high integrity while discharging duties in the bank. By misappropriating a sum of Rs. 1000/- belonging to customer, the Petitioner has acted prejudicially to the interest of the bank. Hence, 17.5(j) of Bipartite Settlement is directly attracted. Hence, it is absolutely incorrect to state that the acts committed by the Petitioner did not attract the provisions of Bipartite Settlement. There was absolutely no evidence in the enquiry to establish that the said amount represented a loan taken by him from Mrs. Madeena Beevi. It is denied that the Enquiry Officer and Presenting Officer were bent upon handing him down with the order of dismissal. As the charges proved against the Petitioner was serious in nature showing moral turpitude on his part, the Disciplinary Authority rightly awarded the punishment of dismissal to the Petitioner. The Disciplinary Authority rightly accepted their evidence and came to the conclusion that the charges framed against the Petitioner was established. The Petitioner is guilty of charges of misappropriation and it shows moral turpitude on his part. There is no justification or reason to reinstate him into bank's service. The punishment of dismissal awarded to him is commensurate with the gravity of the charges proved against the Petitioner. The past record of the Petitioner was also bad. There are no grounds for setting aside order of dismissal dated 19-8-94 passed against the Petitioner. There are also no justifiable grounds to reinstate him into bank's service. The disciplinary proceedings against the Petitioner were held by the bank in a fair and proper manner following all principles of natural justice. If for any reasons, the Hon'ble Tribunal comes to a conclusion that the enquiry was not conducted in a fair and proper manner, the Respondent/Bank prays that this Hon'ble Tribunal may give an opportunity to the Respondent/Bank to let in oral as well as documentary evidence. Hence, it is prayed that this Hon'ble Tribunal may be pleased to dismiss the claim of the Petitioner with costs.

4. When the matter was taken up for enquiry, no one has been examined as a witness on either side. 8 documents have been marked on the side of the I Party/Workman as Ex.W1 to W8 and on the side of the Respondent/Management 29 documents have been marked as Ex.M1 to M29. The argument advanced by the learned counsel on either side was heard.

5. The Point for my consideration is—

"Whether the management of Indian Overseas Bank is justified in dismissing Sri S. Selvaraj, Clerk/Shroff/Typist from the services of the bank w.e.f. 19-8-1994 and if not, to what relief the workman is entitled?"

Point :—

It is admitted that the I Party/Workman Sri S. Selvaraj was last working at Tiruvarur branch of the Respondent/Bank as a Clerk and he was dismissed from service on 19-8-94 in respect of charge sheet dated 10-04-93 and the same was also confirmed in the appeal by the Appellate Authority on 10-11-94. Xerox copy of Ex. W1/M1 dated 10-04-93 is the 2nd additional charge sheet cum suspension order given by the Respondent/Bank to the Petitioner/Workman Sri S. Selvaraj. It is alleged in the charge memo that the Petitioner Sri S. Selvaraj has committed an act of misappropriation of a Cheque dated 29-4-91 for a sum of Rs.1000/- brought by one Mrs. Madeena Beevi, a constituent of the bank drawn in favour of Mrs. E. Fatima Purveen. It is alleged that Sri S. Selvaraj, the Petitioner/Workman had misled Mrs. Madeena Beevi to believe that cheque dated 29-4-91 is an account payee cheque which has got to go through her account and the same would take ten days time for encashment and as Mrs. Madeena Beevi was in urgent need of Rs.1000/- Sri S. Selvaraj had told that Mrs. Rasoolbeevi, sister of Mrs. Madeena Beevi with Account No. SB 11195 could draw an amount and can help her sister Mrs. Madeena Beevi and that Sri S. Selvaraj also promised Rasoolbeevi that the cheque proceeds which was drawn in favour of Fatima Purveen would be deposited in Rasoolbeevi's account and that as advised by Sri S. Selvaraj Ms. Rasoolbeevi drew a withdrawal slip for Rs.3000/- from her account and gave Rs.1000/- to Mrs. Madeena Beevi and that Sri S. Selvaraj instead of depositing the cheque of Rs.1000/- which was brought by Mrs. Madeena Beevi into Rasool Beevi's account very cleverly gave the cheque to the proprietor of M/s. Sri Lakshmi Stores who is also having current account No. 495 in the bank and requested him to put it into his account and took Rs.1000/- from him and misappropriated that money and therefore, a sum of Rs.1000/- which should have been gone in Rasool Beevi's account was cleverly manipulated by the Petitioner Sri S. Selvaraj and he misappropriated the same. For the charge memo, the Petitioner Sri S. Selvaraj has not given any reply, though he was given an opportunity. Ex. W2/M2 is the xerox copy of the change of caption to charge sheet under Ex. W1/M1. Ex. M3 is the xerox copy of the letter dated 16-9-93 sent to the Petitioner informing him about the date of enquiry as 12-10-93 enclosing a list of documents and witnesses proposed to be relied upon by the management and directing him to peruse the list of documents at Tiruvarur branch in the presence of an office. Ex. W3/M4 and M5 are the Xerox copies of enquiry proceedings. Ex. M18 to M29 are the Xerox copies of documents relied upon by the Respondent/Management in the domestic enquiry. It is seen from enquiry proceedings that in the enquiry to establish the charge levelled against the charge sheeted employee, the Petitioner herein, the management has examined 5 witnesses and produced 19 documents as exhibits. It is seen from enquiry proceedings

that the Petitioner though he has given an opportunity to have the assistance of defence representative, he did not choose to have one such defence representative assistance and he has not also examined any witness and not marked any document on his side. Ex. M6 is the written submission dated 9-6-94 submitted by the Petitioner as his reply to enquiry proceedings. Ex. M7 is the xerox copy of the findings of the Enquiry Officer. A perusal of Ex. M7 shows that after considering the oral and documentary evidence let in before him, the Enquiry Officer has come to a conclusion after taking into consideration of the reply given by the charge sheeted employee, that the charges contained in the charge sheet against the charge sheeted employee are proved in toto. On submission of the findings of the Enquiry Officer, the Disciplinary Authority has sent a letter dated 22-7-94 to the Petitioner as show cause notice and a notice of personal hearing proposing punishment of dismissal. The xerox copy of the same is Ex. W4/M8. Ex. W5/M9 is the xerox copy of the proceedings of the personal hearing conducted by the Disciplinary Authority dated 12-8-94. The Disciplinary Authority after affording an opportunity of personal hearing to the Petitioner, charge sheeted employee, has passed his final order dated 19-8-94 imposing the punishment of dismissing the Petitioner from bank's service with immediate effect without notice in terms of para 17.6 (a) of Bipartite Settlement dated 14-12-1966. The xerox copy of the same is Ex. W6/M10. Against the order of dismissal passed by the Disciplinary Authority, Petitioner/Workman has preferred an appeal to the Appellate Authority, Sri S. Ganesan, the Deputy General Manager and has requested him to give personal hearing by letter dated 5-9-94. The xerox copy of that letter is Ex. M11. For that letter, the Deputy General Manager, Sri K. Rajagopal, the Appellate Authority sent a reply to the Petitioner dated 7-10-94 stating that personal hearing will be given to him on 28-10-94 at 3.30 pm in the New Building, 763 Anna Salai Madras. The xerox copy of that letter is Ex. M12. Then a telegram has been sent to Petitioner informing him that personal hearing date has been changed to 31-10-94. The xerox copy of the telegram is Ex. M13. Then on 31-10-94, the Petitioner Sri S. Selvaraj has given a written representation to the Appellate Authority. The xerox copy of the same is Ex. W7/M14. The Appellate Authority passed an order dated 10.11.94 dismissing the appeal of the Petitioner. The xerox copy of the same is Ex. W8/M15. Ex. M16 is the xerox copy of the postal acknowledgement for the communication sent by Chief Officer (Vigilance Deptt.) Central Office which has been received by the Petitioner at his residential address at Madhapuram, Tiruvarur. A perusal of all these documents clearly shows that after giving all opportunity, the Petitioner was dismissed from service and in the departmental appeal also, he was given personal hearing before the Appellate Authority and the Appellate Authority after considering the entire materials, on merits, has dismissed the appeal. From this, it is seen that a fair

and proper enquiry was conducted against the delinquent employee, the Petitioner herein, and after giving sufficient opportunity to defend himself effectively, it was found by the Enquiry Officer and also Disciplinary Authority as well as Appellate Authority that the charges levelled against him had been established. From the available materials in this case, it is seen that the charges levelled against the delinquent employee, the Petitioner herein, has been proved with sufficient oral and documentary evidence by the management before the Enquiry Officer. From that, it is evident that because of the conduct of the Petitioner Sri S.Selvaraj, the bank employee which reflects his dishonesty and thereby it resulted in a loss to the constituent. The learned counsel for the Respondent/Management would put forth an argument that the Hon'ble Supreme Court in its two latest judgements reported as 1996 II LLN 881 MUNICIPAL COMMITTEE, BAHADUR GARH Vs. KRISHNA BEHARI AND OTHERS and 1998 (3) LLN 89 UNION BANK OF INDIA Vs. VISWA MOHAN has held that "in banking business absolute devotion, diligence and integrity need be preserved by every bank employee and if this is not observed confidence of the depositors would be impaired and that bank employee found guilty of the charge of misappropriation cannot be retained in bank's service and the appropriate punishment for them is only dismissal from bank's service and any sympathy shown to them is totally opposed to public interest" and that the dismissed employee having been found guilty of the serious charge of misappropriation of customer money was therefore, rightly awarded the punishment of dismissal from bank service.

6. The learned counsel for the Petitioner/Workman would argue that the findings of the Enquiry Officer is perverse and there is no positive evidence to establish the alleged charge of misappropriation that it was a private transaction and Mrs. Madeena Beevi was not put to any loss, as she has received the amount from her sister that day itself and there is no question of reimbursing Mrs. Madeena Beevi who has not incurred any loss on account of any or any indebted banking transaction. For the collection of cheque for Rs.1000/- it was placed in M/s. Sri Lakshmi Stores current account and the claimant/Petitioner collected the amount from M/s. Sri Lakshmi Stores proprietor and there is no question of misappropriation involved and that it is only treated as a private loan advanced to the claimant/Petitioner. If that being so, the claimant, Petitioner/Workman would not have failed to give one such reply to the charge sheet issued to him immediately. As per Ex.M6 his explanation to Enquiry Officer's report, the Petitioner has stated that on that date when he was entrusted the cheque in question, he was in deposit section and not in S.B. section and at that time, he suffered a lot and incurred medical expenses for his wife and Mother. So, he received the amount to

meet the medical expenses for his wife and Mother and after encashing the cheque, he informed them that the amount was urgently needed and used by him and he assured that he will repay the amount either from his salary or after sometime, but due to some family difficulties, he could not repay the amount in time. So from this, it is evident that at the time of entrusting the cheque, the Petitioner has not got the consent of the person concerned to utilise the amount of Rs. 1000/- for his own use and took that amount as loan and even by his own version, he took that amount first and then only he has informed the same that he has availed that amount as loan. From this, it cannot be said that the amount has been advanced to him by the person concerned as the loan to the Petitioner for his urgent need to meet the medical expenses of his wife and mother. That version of the Petitioner can only be an afterthought for escaping from the liability of the charges. So under such circumstances, it cannot be said that it is a perverse finding of the Enquiry Officer on which the Disciplinary Authority as well as the Appellate Authority has acted upon and it is incorrect.

7. It is the further argument of the learned counsel for the Petitioner that though the Appellate Authority and Disciplinary Authority have taken into account the claimant/Petitioner's past record in their orders, without giving him an opportunity to express his defence and for this, the learned counsel for the Petitioner has relied upon the judgement reported as 1993 II LLJ 527 decided by the High Court of Karnataka in a case between B. NAGARAJU and KARNATAKA STATE ROAD TRANSPORT CORPORATION AND ANOTHER. In that case, the High Court has held that "*if the past record of the conduct has a bearing on the severity of penalty to be imposed, before it is taken into consideration, the delinquent must be given an opportunity to put forth his say. Without affording an opportunity to delinquent, it would not be permissible to reply upon the past conduct of the delinquent officer because it is well accepted principles of natural justice that no person can be condemned without affording an opportunity to put forth his say*". Here in this case, from the materials available, it is seen that there is sufficient evidence available in the domestic enquiry itself to prove that the Petitioner has acted in a manner as a bank employee in the banking business without absolute devotion diligence and integrity which is to be preserved by every bank employee, and the failure of the same caused the depositors losing confidence in the banking business of the Respondent/Bank. So, considering the past record of the Petitioner/Workman by the Respondent/Management for imposing the punishment of proved misconduct, it is not very much necessary even then the Respondent/Management has considered the past record only to consider

awarding lesser punishment than the capital punishment. Since the past record of the Petitioner/Workman is not very much appreciable the Respondent/Management was obliged to consider the same along with the proved misconduct of the Petitioner/Workman in awarding the punishment of the same. When the charge is about misappropriation of the depositor's money, as it is held by the Supreme Court in its decisions that Petitioner's retention in banking service is opposed to public interest and the appropriate punishment for the same is only dismissal from bank's service. Under such circumstances, it can be held that the management of Indian Overseas Bank is justified in dismissing the Petitioner/Workman Sri S. Selvaraj, Clerk/Shroff/Typist from the services of the bank and the concerned workman is not entitled for any relief. Thus, the point is answered accordingly.

8. In the result, an Award is passed holding that the action of the management of Indian Overseas Bank is justified in dismissing Sri S. Selvaraj, Clerk/Shroff/Typist from the services of the bank with effect from 19.8.1994. Hence, the concerned workman is not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 17th December, 2002.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined:—

On either side : None

Documents Exhibited:—

For the I Party/Claimant :— : Nil

Ex. No.	Date	Description
W1	10-04-93	Xerox copy of the charge sheet issued to Petitioner
W2	20-05-93	Xerox copy of the letter from Disciplinary Authority To Petitioner intimating the change of caption of Charge sheet
W3	12-10-93 24-03-94 & 25-03-94	Xerox copy of the enquiry proceedings
W4	22-07-94	Xerox copy of the show cause notice issued by Disciplinary Authority to Petitioner
W5	12-08-94	Xerox copy of the proceedings of personal hearing.
W6	19-08-94	Xerox copy of the order of dismissal passed by the Disciplinary Authority against the Petitioner

Ex. No.	Date	Description
W7	31-10-94	Xerox copy of the appeal preferred by Petitioner
W8	10.11.94 & 14-1-94	Xerox copy of the order of Appellate Authority

For the II Party/Management :—

M1	10-04-93	Xerox copy of the charge sheet cum suspension Order issued to Petitioner
M2	20-05-93	Xerox copy of the letter from Disciplinary Authority to Petitioner
M3	16-09-93	Xerox copy of the letter from Disciplinary Authority to Petitioner fixing date of hearing.
M4	12-10-93	Xerox copy of the proceedings of enquiry.
M5	24-03-94	Xerox copy of the proceedings of enquiry
M6	09-07-94	Xerox copy of the written brief submitted by Petitioner
M7	Nil	Xerox copy of the Enquiry Officer's report
M8	22-07-94	Xerox copy of the show cause notice issued by Disciplinary Authority to Petitioner
M9	12-08-94	Xerox copy of the proceedings of personal hearing
M10	19-08-94	Xerox copy of the order of punishment passed by Disciplinary Authority
M11	05-09-94	Xerox copy of the appeal preferred by Petitioner
M12	07-10-94	Xerox copy of the notice issued by Appellate Authority To Petitioner fixing date of personal hearing.
M13	21-10-94	Xerox copy of the telegram issued by Appellate Authority To Petitioner
M14	31-10-94	Xerox copy of the written representation made by Petitioner to Appellate Authority
M15	10-11-94	Xerox copy of the Appellate Authority's order.
M16	21-11-94	Xerox copy of the postal acknowledgement received from Petitioner
M17	25-01-93	Xerox copy of the investigation report of Sri P. Ganesan, RO Nagapattinam with enclosures.

M18 Nil	Xerox copy of the attendance register of Tiruvarur Branch
M19	Xerox copy of the attendance register of Tiruvarur Branch
M20 19-06-84	Xerox copy of the S.B. a/c. opening form No.12255.
M21 Nil	Xerox copy of the specimen signature sheet
M22 07-05-91	Xerox copy of the clearing register
M23 07-05-91	Xerox copy of the paying counter cash book
M24 Nil	Xerox copy of the current account ledger folio of M/s. Sri Lakshmi Stores
M25 14-02-83	Xerox copy of the SB a/c. opening form of A/c.11195
M26 Nil	Xerox copy of the specimen signature sheet of S.B. A/c.
M27 15-05-91	Xerox copy of the withdrawal slip S.B.A/c 11195 of Ms.Rasool Beevi.
M28 25-01-93	Xerox copy of the debit suspense voucher for Rs.1000/-.
M29 25-01-93	Xerox copy of the memo from RO Nagapattinam to Tiruvarur Branch.

नई दिल्ली, 21 जनवरी, 2003

का. आ. 485.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इण्डियन ओवरसीज बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 636/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17/01/2003 को प्राप्त हुआ था।

[सं. एल-12012/223/1997-आई आर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 21st January, 2003

S.O. 485.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 636/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Overseas Bank and their workman, which was received by the Central Government on 17-01-2003.

[No. L-12012/223/1997-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
CHENNAI**

Tuesday, the 17th December, 2002

PRESENT : K. KARTHIKEYAN,
Presiding Officer

INDUSTRIAL DISPUTE NO : 636/2001

(Tamil Nadu Principal Labour Court CGID No. 16/98)

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the President, Indian Overseas Bank Employees Trade Union and the Management of Indian Overseas Bank, Chennai.

BETWEEN

The President : I Party/Claimant
Indian Overseas Bank Employees Trade Union,

AND

The General Manager, II Party/Management
Indian Overseas Bank, Chennai.

APPEARANCE:

For the Claimant Mr. K. V. Ananthakrishnan
Advocate

For the Management M/s. N.G.R. Prasad,
S. Vaidyanathan,
S. Satishkumar, Advocates.

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No.L-12012/223/97/IR(B-II) dated 29-06-98.

This reference has been made earlier to the Tamil Nadu Principal Labour Court, Chennai, where the same was taken on file as CGID No. 16/98. When the matter was pending enquiry in that Principal Labour Court, the Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu Principal Labour Court to this Tribunal for adjudication. On receipt of records from that Tamil Nadu Principal Labour Court, this case has been taken on file as I.D. No. 636/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 16-10-2001 with their respective parties and to prosecute

this case further. Accordingly, the learned counsel on either side along with their respective parties have appeared and prosecuted this case further. The Claim Statement and Counter Statement of either side were filed earlier before the Tamil Nadu Principal Labour Court, Chennai, when the matter was pending there for adjudication.

Upon perusing the Claim Statement, Counter Statement, the oral and documentary evidence let in on the side of the I Party/Claimant and the documentary evidence let in on the side of the II Party/Management, the other material papers on record, the written arguments filed by the learned counsel for the II Party/Management, after hearing the arguments advanced by the learned counsel for the I Party/Claimant, and this matter having stood over till this date for consideration, this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

“Whether the demand of the Indian Overseas Bank Employees Trade Union for regularisation of Smt. Kaveri, Temporary Sweeper, District Court Extension Counter, Salem is justified or not? If justified, to what relief Smt. Kaveri is entitled?”

2. The averments in the Claim Statement of the I Party/Claimant Indian Overseas Bank Employees Trade Union, Chennai (hereinafter refers to as Petitioner) are briefly as follows :—

The Petitioner Union has raised this industrial dispute espousing the cause of the workman Smt. G. Kaveri against the II Party/Management, Indian Overseas Bank. The II Party/Management is having a District Extension Counter at Salem. One Mr. Manickam was a permanent part-time sweeper attached to the District Court Extension Counter, Salem. He was transferred to Seelanaickenpati branch in November, 1993. The bank wanted to select a sweeper through Employment Exchange to fill up the vacancy. As the process to select sweepers through Employment Exchange would take time, the bank engaged the services of Smt. G. Kaveri from 22-11-93. The concerned workman Smt. G. Kaveri was employed as a sweeper on temporary basis in the permanent vacancy at District Court Extension Counter of the II Party/Management bank at Salem from 22-11-93 to 24-11-94 without any break. She had put in 380 days of continuous service. Instead of regularising her services, the bank called for candidates to fill up the permanent vacancy by new recruits. One Sri E. Sivakasi was selected through Employment Exchange and joined service from 27-11-94. Smt. G. Kaveri was removed from service from 24-11-94. The said Sivakasi worked as Sweeper and water boy from 27-11-94 to 18-02-97. The said person left the job and joined insurance company. The

concerned workman was again asked to work from 18-2-97 till one Marimuthu was appointed through Employment Exchange from 16-6-97. He worked from 16-6-97 to 5-2-98. Mr. Marimuthu left the service on 5-2-98. Hence, the said Kaveri has been working as Sweeper from 6-2-98 till date continuously. A sum of Rs. 20/- is paid per day on weekly basis. In view of G. Kaveri's continuous service with the bank, the claimant union had raised the dispute to regularise her service as per law. The Govt. has referred the matter to this Hon'ble Tribunal for adjudication. The concerned workman Smt. Kaveri, temporary employee has to be regularised in permanent vacancy in time scale of pay. She has worked from 22-11-93 to 29-11-94 and from 18-2-97 to 16-6-97 and from 6-2-98 till date. She has put in more than 240 days of continuous service in a year to claim permanent status. In order to prevent the concerned workman Smt. G. Kaveri from claiming continuous service and circumvent the law for regularisation of service, the Respondent has alleged that one Kaveriammal, mother in law of Kaveri worked on alternate days during the relevant period between 22-11-93 and 29-11-94 and from 16-6-97 to 6-2-98. Kaveriammal was aged 70 years and she was not physically fit to work as a sweeper. After Sivakasi left the services, the II Party/Management as per Section 25H of the Industrial Disputes Act, 1947 ought to have offered and given the opportunity for employment to the concerned workman Smt. G. Kaveri who was a retrenched workman on the basis of preference over others. The Employment Exchange (Compulsory Employment Notification of Vacancies) Act, 1959 has no application to the post of sweepers and class IV employees. Since the concerned workman has registered her name with the Employment Exchange, the II Party/Management has to regularise her service. The concerned workman by letter dated 22-8-94 requested the Assistant General Manager (Personnel) Central Office to regularise and confirm her services on permanent basis. The branch sent a letter dated 25-8-94 the Regional Office, Salem recommending for regularisation of her services on permanent basis. Therefore, it is prayed that this Hon'ble Tribunal may be pleased to pass an award regularising the services of Smt. G. Kaveri from 22-11-93 giving weightage for the period she worked and directing payment of time scale of pay for the period she worked.

3. The averments in the Counter Statement filed by the II Party/Management, Indian Overseas Bank, Chennai, (hereinafter refers to as Respondent) are briefly as follows :—

The Respondent is a nationalised bank with branches functioning throughout the country. Being a Central Govt. Undertaking, it has fixed the number of posts to be operated in each of its establishments. No one is permitted to employ any person in the service of the bank beyond its sanctioned strength. As far as the clerical staff are concerned, the recruitment is made through banking service recruitment

board. As far as the sub-staff are concerned only candidates conforming to norms or recruitments sponsored by Employment Exchange are considered for employment. This is to avoid any nepotism, favouritism and able to make the opportunities for employment in a nationalised bank available to those registered with Employment Exchange. The present reference cannot and does not constitute an industrial dispute. In the instant case, Smt. G. Kaveri could not be considered for permanent absorption because she was not sponsored through Employment Exchange. The Respondent/Bank is a public sector bank and it is bound to adhere to the guidelines issued by Government of India in regard to the recruitment in sub-staff cadre. A list of candidates sponsored by Employment Exchange subject to their satisfying the norms relating to age, educational qualification etc. are called for, an interview and the candidate selected is appointed as permanent part-time sweeper. The claimant union cannot raise this dispute when Smt. G. Kaveri was not sponsored by Employment Exchange. On this ground alone, reference deserved to be rejected in limine. As the permanent part-time sweeper Sri Manickam attached to District Court Extension Counter, Salem was transferred to our Seelanaickenpatti branch in November, 1993, the Respondent/Bank had taken up with Employment Exchange for sponsoring suitable candidates to select temporary sweeper in the place of Sri Manickam. As the process took a long time to keep the branch premises clean, the Respondent/Bank had utilised the services of temporary part-time sweepers until a permanent sweeper arrangement was made through Employment Exchange conforming to the norms. Accordingly, the branch had utilised the services of two temporary sweepers namely Smt. L. Kaveri Ammal, W/o. Lakshmanan and Smt. G. Kaveri, W/o. Gopal alternatively. The concerned workman Smt. G. Kaveri was employed by the Respondent from 22-11-93 to 24-11-94 without any break is denied. This has to be put to strict proof. As per available records, the services of the two temporary part-time sweepers were utilised alternatively. Hence, the contention of the Petitioner is not valid. As per the Govt. guidelines in force, any permanent vacancy in the subordinate/sweeper cadre can be filled upon only by way of calling for list of candidates from Employment Exchange conforming to our norms and conducting interview by a panel of bank officials. Only those candidates, conforming to norms prescribed by the bank and who secure the required ratings are to be selected and appointed in the permanent vacancies. As the services of Mrs. L. Kaveri Ammal and Mrs. G. Kaveri were utilised, purely on temporary basis, alternatively on rotation, their services were dispensed with, when a permanent employment was made as per rules. Therefore, the Petitioner's Union cannot claim regularisation of her engagement in the Respondent/Bank as a matter of right. Hence, the contention of the Union that the Respondent/Bank had filled up the vacancy by new recruit instead of regularising the services of Smt. G. Kaveri is not tenable.

The number of days in which the concerned workman was engaged is disputed and put to strict proof by the Petitioner. The averments in the Claim Statement of the Petitioner Union that the said Smt. Kaveri has been working as sweeper from 6-2-98 till continuously is denied and the Petitioner is put to strict proof of the same. The Petitioner had raised the industrial dispute during 1995 itself. Hence, the claim of the Petitioner is false. The services of Smt. G. Kaveri cannot be utilised any further as it would be against the Govt. guidelines and hence there is no scope to consider him for regular employment. Therefore, it is prayed that this Hon'ble Court may be pleased to make an award rejecting the claim of the Petitioner Union.

4. When the matter was taken up for enquiry, one witness on the side of the I Party/Claimant the concerned workman Smt. G. Kaveri has been examined as WW1 and 2 documents have been marked as Ex. W1 and W2. On the side of the II Party/Management, no one has been examined as a witness and 4 documents have been marked as Ex. M1 to M4. Learned counsel for the I Party/Claimant has advanced his oral arguments and the learned counsel for the II Party/Management had filed his written arguments.

5. The point for my consideration is :—

“Whether the demand of the Indian Overseas Bank Employees Trade Union for regularisation of Smt. Kaveri, Temporary Sweeper, District Court Extension Counter, Salem is justified or not? If justified, to what relief Smt. Kaveri is entitled?”

Point :—

The I Party/Claimant Indian Overseas Bank Employees Trade Union, Chennai, has raised this industrial dispute against the management of Indian Overseas Bank, Chennai, espousing the cause of the concerned workman employed as a temporary sweeper by the Respondent/Bank demanding regularisation of her service. It is the contention of the Respondent/Management in their Counter Statement that the I Party/Claimant Union cannot raise this industrial dispute, when Smt. G. Kaveri was not sponsored by Employment Exchange. It is admitted by the Respondent/Bank in their Counter Statement that permanent part-time sweeper Sri Manickam attached to the District Court Extension Counter, Salem was transferred to their Seelanaickenpatti branch in November, 1993 and that to keep the branch premises clean till posting a suitable candidate to that post by selecting a temporary sweeper from the candidates sponsored by Employment Exchange, the said bank branch had utilised the services of two temporary sweepers i.e. (1) Smt. L. Kaveri Ammal and (2) Smt. G. Kaveri. It is their further contention that as the services of Smt. L. Kaveri Ammal and Smt. G. Kaveri were utilised purely on temporary basis, alternatively on rotation, their services were dispensed with, when a permanent employment was made as per rules and therefore, the Petitioner Union cannot claim regularisation of her

engagement in the Respondent/Bank as a matter of right. The concerned workman as WW1 had deposed that she was working as a sweeper in the District Court Extension Counter of the Respondent Indian Overseas Bank at Salem and she was employed as temporary sweeper in the year 1993 and she was attending the sweeper work continuously for one year and after that one Mr. Sivakasi has joined in the District Court Extension counter as sweeper, so she was removed from service and that Sivakasi worked as sweeper for three years and he left the service in the year 1997 and she was asked to attend the sweeper work and subsequent to Sivakasi left the service, she was doing the work of sweeper and after she worked for four months, one Mr. Marimuthu was appointed as a sweeper and he worked for four months and after he left the service, she was doing that sweeper work continuously and she was paid daily wages at the rate of Rs. 20/- and was paid on weekly basis. Ex. W1 is the xerox copy of her representation dated 22-8-94 given to the Respondent/Management requesting the Manager to absorb her in service as a permanent employee and she has not received any reply for her representation. It is her further evidence that one Mrs. Lakshmi was subsequently appointed for the sweeper post and as and when Smt. Lakshmi goes on leave, she used to work as a sweeper in the leave vacancy and her Mother-in-Law's name also is Kaveri Ammal and she is aged at 65 years and she cannot do the work as sweeper and she was doing the work of sweeper, but in the payment voucher, the thumb impression of her mother-in-law Kaveriammal used to be obtained and when she questioned the same, the Branch Manager told that as per the orders of the higher official, her mother-in-law's thumb impression has been obtained in the payment voucher and she requested the Manager of the Bank branch to recommend her name for the sweeper post to the Head Office and hence she requests this Tribunal to pass an award directing the Respondent/Bank management to appoint her as a sweeper in the future vacancy and to regularise her services as a permanent employee of the bank. In the cross examination, nothing has been suggested to WW1 as a denial of her Evidence in Chief that she used to work in the bank in the name of her Mother-in-Law also and for the wages she received, the bank used to get the thumb impression of her Mother-in-Law in the wage payment voucher. No one has been examined on the side of the Respondent/Management to give evidence to deny the evidence of WW1 as false with regard to her employment in the District Court Extension Counter of the bank branch at Salem. From the plea and materials available in this case, it is seen that from the time when the permanent part-time sweeper Sri Manickam attached to District Court Extension Counter has been transferred from that place, the concerned workman Smt. G. Kaveri had been continuously working as temporary part-time sweeper by her name as well as by the name of her Mother-in-Law, Smt. Kaveriammal and was getting wages of the Respondent/Bank. For the plea of the

Respondent/Management in their Counter Statement that the concerned workmen Smt. G. Kaveri and Smt. L. Kaveriammal were engaged by the Respondent/Bank branch of District Court Extension Counter at Salem on rotation basis as temporary part-time sweepers, no supporting oral or documentary evidence has been filed before this Tribunal. It is not the contention of the Respondent/Management that the concerned workman Smt. G. Kaveri never worked as temporary part-time sweeper in the District Court Extension Counter branch of the Respondent/Bank at Salem. The documents filed on the side of the Respondent/Management as Ex.M1 to M4 support the evidence given by WW1 in respect of her employment as part-time sweeper in her name as well as in her Mother-in-Law's name. From the statements/documents filed by the Respondent/Management as Xerox copies Ex.M1 and M3, it is seen that the Respondent/Management has engaged the temporary part-time sweeper for a total period of 626 days. Except filing Ex.M3 statement and other vouchers that the Mother-in-Law of the concerned workman Smt. G. Kaveri has been engaged on rotation basis as temporary part-time sweeper in District Court Extension Counter at Salem, no supportive evidence worth considering has been let in by the Respondent/Management to disprove the version of WW1 in her evidence that she alone has been working in that branch both in her name as well as in her Mother-in-Law's name Kaveriammal. So under such circumstances, it is seen that the concerned workman Smt. G. Kaveri has been engaged as temporary part-time sweeper continuously in the Respondent/Bank branch of District Court Extension Counter at Salem. While engaging her so, the Respondent/Bank has not denied her engagement stating that she is not a person sponsored by Employment Exchange for giving that work and she is not coming under the eligibility criteria. Ex. W1 is the xerox copy of the letter given by the concerned workman Smt. G. Kaveri to the Respondent/Bank management, wherein she has stated that she is working in the bank branch ever since 21-11-1993 without any break and her services may be regularised. Ex. W2 is the xerox copy of the communication dated 24-8-94 sent by Regional Office to the Assistant Manager-in-charge, Indian Overseas Bank, District Court Extension Counter, Salem advising him to forward his comments on the application through Senior Manager, Salem Main Branch regarding her work at the Extension Counter and for that letter the Branch Manager has chosen to send a reply dated 25-8-94 and the xerox copy of the letter has been filed by the Petitioner Union, wherein, the Branch Manager has stated that he strongly recommended to consider the request of the concerned workman as the bank is suffering for want of permanent sweeper for the past one and half years.

6. It is not disputed that clause 18.8 of Bipartite Settlement dated 14-12-66 states that a temporary workman may also be appointed to fill up a permanent vacancy, provided that such a temporary appointment shall not

exceed a period of three months and during which period, the bank shall make arrangement for filling up the vacancy. As per the available materials, it is seen that the Respondent/Bank management had not taken action to fill up the permanent vacancy within three month of the same falling vacant and only after one year, after utilising the services of a temporary employee, Smt. G. Kaveri, the Respondent/Bank management has appointed a new person through Employment Exchange. It is not disputed that the concerned workman has not been selected for this post of sweeper in District Court Extension Counter in a permanent vacancy as a candidate sponsored through Employment Exchange. Further by working as a temporary sweeper, the concerned workman cannot get an automatic right for being employed in the permanent vacancy as a part-time sweeper. Under such circumstances, it can be held that the demand of the Indian Overseas Bank Employees Trade Union, the Petitioner Union for regularisation of the concerned workman Smt. G. Kaveri, temporary sweeper, District Court Extension Counter at Salem is not justified and hence the concerned workman Smt. G.Kaveri is not entitled for regularisation of her service. Thus, the point is answered accordingly.

7. In the result, an Award is passed holding that the demand of the I Party/Claimant Indian Overseas Bank Employees Trade Union on behalf of the concerned workman Smt. G. Kaveri is not justified. Hence, the concerned workman is not entitled for regularisation of service, as claimed by the I Party/Claimant Union, but considering the fact that the concerned workman Smt. G. Kaveri is engaged by the Respondent/Bank as a temporary sweeper continuously for nearly one and half years, preference may be given to the concerned workman, subject to her eligibility, when the Respondent/Bank appoints some workman in the next arising vacancy in the post of part-time sweeper. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 17th December, 2002.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined:—

For the I Party/Claimant : WW1 Smt. G. Kaveri

For the II Party/Management : None

Documents Exhibited :—

For the I Party/Claimant :—

Ex. No.	Date	Description
W1	22-8-94	Xerox copy of the representation given by Concerned workman to Respondent/Bank
W2	24-08-94	Xerox copy of the letter from Regional Office of Respondent/Bank to Salem DC EC branch.

For the II Party/Management :—

Ex. No.	Date	Description
M1	Nil	Xerox copy of the statement showing details of days worked by the concerned workman.
M2	Nil	Xerox copy of the vouchers showing details of cash paid to concerned workman.
M3	Nil	Xerox copy of the statement showing details of days worked by Ms. L.Kaveri Ammal.
M4	Nil	Xerox copy of the vouchers showing details of cash paid To L.Kaveri Ammal.

नई दिल्ली, 10 जनवरी, 2003

का. आ. 486.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल (संदर्भ संख्या 45/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/01/2003 को प्राप्त हुआ था।

[सं. एल-22012/29/1996-आई आर(सी-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 10th January, 2003

S.O. 486.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 45/1996) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ECL and their workman, which was received by the Central Government on 9/01/2003.

[No. L-22012/29/1996-IR(C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT: Shri Ramjee Pandey,
Presiding Officer.

REFERENCE NO. 45 OF 1996

PARTIES: Agent, Shankarpur Colliery ECL
.....Management

vs.

Shri Swadhin Kumar Benerjee
.....Workman

Representation:

For the management : Shri P.K. Das Advocate.
 For the Union (Workman) : Shri M. Mukherjee, Advocate.
 Industry: Coal Sate: West Bengal. Dated the 15th November, 2002.

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947, Govt. of India through the Ministry of Labour vide its order No. L-22012/29/96-IR (C-II) dated 26-9-96 has referred the following dispute for adjudication by this Tribunal:

"Whether the action of the management of Shankarpur Colliery, Bankola Area, M/s E.C.L. Po: Ukhra, Distt. Burdwan was justified in dismissing Sh. Swadhin Kumar Banerjee, Ex-Store Keeper w.e.f 22-11-94. If not, what relief the workman is entitled to?"

In response to the summons issued by the Tribunal both the parties appeared through their representatives. The management appeared through Shri. P.K. Das, Advocate and the union appeared through Shri. M.Mukherjee, Advocate. Both the parties filed their written statements and contested the dispute.

Earlier the union could not appear in the Tribunal and hence by order dated 12-11-96 a 'No Dispute Award' was passed by the then Presiding Officer. Subsequently the union appeared on 15-11-96 and filed a petition for restoration of the dispute. After hearing both the parties the then Presiding Officer by order dated 16-1-97 allowed the application for restoration and set aside the 'No Dispute Award' dated 12-11-96 and there after both the parties contested the dispute.

The facts of the case in brief are that the workman viz. Shri Swadhin Kumar Banerjee was a permanent employee of Shankarpur Colliery under Bankola Area of E.C.L. and was posted there as a Store Keeper. Subsequently the workman was handed over a chargesheet with allegation that when he was on duty on 3-9-94 some iron materials etc. from colliery stores despatched through some out side truck in connivance of the workman without observing the formalities and without knowledge of any of the concerned officer and that part of his activities was subversive to the model standing orders applicable to the coal mines employees through which the workman was connected. The chargesheet revealed that the workman was alleged that he had committed theft, fraud or dishonesty in connection with the employer's business property. The reply of the workman was found unsatisfactory by the competent authority and

consequently after conducting domestic enquiry the workman was dismissed from service on 22-11-94.

The case of the workman in brief is, that after receiving the chargesheet the workman submitted his reply but the competent authority was not satisfied by the reply of the workman and accordingly an enquiry was started. The workman received the notice of enquiry but on the fixed date, was unable to attend on the date fixed and made a prayer to the Enquiry Officer to defer the hearing but the prayer of the workman was not considered and the Enquiry Officer proceeded to do enquiry ex parte in absence of the workman and submitted the enquiry report. The report of the Enquiry Officer has no foundation and the same is without application of mind. The act of the Enquiry Officer was not fair and he submitted the enquiry report without considering the relevant documents and came to the erroneous conclusion. The principle of natural justice was not complied and the workman was not given opportunity to defend himself. The further case of the union is that the act of the management dismissing the workman is arbitrary and violating the principle of natural justice. The union has denied the allegation made in the chargesheet against the workman and has stated that no such occurrence took place. According to the union on 5-9-94 at about 12-45 a truck being loaded with some scrap iron materials was intercepted by police at Darjeeling more under Kanksha P.S and from the said truck some challans alleged to be of E.C.L. containing some illegible signatures and some papers showing auction purchase of some colliery of scrap iron materials by Gupta Enterprises of Ningha was recovered and accordingly a Kanksha P.S case No. 1130 of 1994 under section 379/120B/4H/420 IPC was registered and in the FIR the involvement of some ECL personnels was indicated but the FIR did not disclose the name of the workman. After receiving such information of seizure of the said loaded truck the authorities of the management asked the workman to hand over the charge of Shankarpur Colliery Store and the workman followed the direction and handed over the charge of the store with details of stock and examination of the said store was done and nothing was found wrong and there was no shortage of any materials in the stores and accordingly the manager of Shankarpur Colliery after taking the charge of the store from the workman issued a certificate to the effect that there was no shortage of any article. It has further stated that none of the authorities of Shankarpur colliery or no other person of ECL made any claim for release and return of the seized articles rather one Dilip Kumar Gupta of Ningha filed application for return of these materials and ultimately by the order of the High Court the articles were returned to said Dilip Kumar Gupta without any objection or protest by the authorities of the ECL. It is further stated that uptill now the management has not been able to substantiate the fact that the articles of subject matter of Kanksha P.S case No 1123/1994 belongs to ECL. It is further stated that

the workman has been victimised by the management without any fault on the part of the workman and when this aspect came to the knowledge of superior authorities, on the prayer of the workman during pendency of this reference and on recommendation of the union the Chief Personnel Manager and the Chief General Manager of Bankola Area sent a not-sheet bearing No. BAPD/DIS/235 dated 16-11-96 alongwith some other papers to General Manager (Personnel) ECL requesting him to reinstate the workman. It is further stated that the act of the management is illegal arbitrary and dismissal of the workman from service is unjustified and accordingly a prayer has been made to direct the management to reinstate the workman in service with back wages.

The case of the management in brief, is that the misconduct alleged against the workman is correct and accordingly he was served with a chargesheet but when the reply of the workman was found unsatisfactory a domestic enquiry was started by an independent Enquiry Officer. The Enquiry Officer conducted the enquiry fairly and despite service of notice the workman intentionally avoided to appear before the Enquiry Officer and consequently exparte enquiry was concluded. The Enquiry Officer recorded the statement of the witness and after considering the evidence submitted the enquiry report disclosing therein that the charge against the workman was established. After careful consideration of the charge the reply of the workman and the enquiry alongwith other connected papers the competent authority was satisfied that the charge against the workman was established and accordingly after considering the gravity of the misconduct, dismissed the workman from service. The management has denied the statement and allegation made by the union in Para Nos. 8, 9, 10 and 11 of its written statement. It has been further stated by the management that it has no knowledge of note-sheet dated 16-11-96 of CPMB of Bankola Area. It is further stated that the order of dismissal is justified.

After hearing both the parties on preliminary point of fairness and validity of enquiry proceeding the then Presiding Officer came to the conclusion that despite written prayer of the workman the Enquiry Officer did not consider the prayer of adjournment although the application for time was received and hence the act of the Enquiry Officer proceeding exparte was not justified and it amounted to denying opportunity to the workman to defend himself and accordingly by order dated 28-8-97 it was held that the enquiry proceeding was not valid and accordingly the management was given opportunity to adduce evidence.

As many as only two witnesses have been examined on behalf of the management. MW-I, Sh. K.N. Chowdhury is a Security Officer under Bankola Area of ECL. He has deposed that the workman viz. Sh. S. Banerjee was posted as storekeeper

at Shankarpur Colliery in the year 1996 and this witness was posted at Bankola Area on 5-6-94. While he was posted as Security Officer at Bankola Area it was reported to the management by Kanksha police that one truck loaded with iron materials was detained on suspicion and one challan without seal issued from Shankarpur Colliery along with weigh bridge slip in triplicate having signature of a store keeper viz. S. Banerjee was seized. Said materials was despatched to Gupta Engineering, Ningha from Shankarpur Colliery without proper authorisation in connivance workman whose involvement was fully established. MW-II, Shri S.K. Sahoo is a Sr. Personnel Officer posted at Shankarpur Colliery. He has deposed that on 5-9-1994 it was reported to the management by Kanksha police that one truck loaded with iron materials was detained on suspicion and one challan without seal issued from Shankarpur Colliery along with weigh bridge slip in triplicate bearing signature of a store keeper Swadhin Banerjee was seized. Said materials were despatched to Gupta Engineering, Ningha without proper authorisation in connivance of S. Banerjee whose involvement in the matter was fully established. He has further deposed that for the afore-said misconduct of the workman the management issued a chargesheet to the workman but the reply of the workman was unsatisfactory and the enquiry was conducted and the workman was dismissed from service.

The union has examined only one witness viz. the workman, Swadhin Banerjee himself who has fully supported and repeated the statements made in the written statement.

Now point for consideration is as to whether the management has been able to establish the charge against the workman.

It has been already mentioned that the management has examined only two witnesses, MW-I & MW-II out of whom MW-I is a Security Officer. He has stated in his evidence that the report was received by the management from Kanksha police station that a truck with iron materials was detained by police personnels on suspicion and this very fact indicates that he is neither an eye witness of this incident nor he has done anything in connection with this incident. In his cross-examination he has stated that the Police Inspector of Kanksha Police Station was investigating the case and hence MW-I is completely a hearsay witness and hence his evidence is not admissible to prove the allegation against the workman. MW-II is a Sr. Personnel Officer of Shankarpur Colliery. Although he has supported the allegation against the workman whose evidence also appears to be hearsay. In para 11 of his cross-examination he has admitted that from the year 1991 to 1997 he was posted at Nakrakonda Colliery and during the period of alleged incident he was not working in Shankarpur Colliery and he had nothing to do with the affairs of Shankarpur Colliery during that period since he joined Shankarpur

Colliery in April, 1997. He has also admitted that he came to know about the facts of the occurrence from the connected files and records of enquiry proceeding. He is also completely a hearsay witness. It will be relevant to mention here that the charge against the workman is of criminal nature and burden lies upon the management to prove the same by direct reliable and consistent evidence. According to the management the truck with iron materials was seized by the Kanksha police but neither the police officer who seized the truck nor any other person in whose presence the truck was seized nor any other person in whose presence the occurrence took place has been examined by the management and I find that management has failed to adduce direct and reliable evidence and ultimately failed to prove the charge against the workman. In this regard Annexure H is a photostat copy of charge report which indicates that the Agent of Shankarpur Colliery took charge of the store from the workman on 22-11-94 after physical verification of the store inventory items and the same was found correct. MW-I was also present when the workman was handing over the charge of the store to the Agent which appears from para 16 of cross-examination of MW-I. Annexure H filed by the workman proves the fact that no article was removed from the store legally or irregularly during the period when the workman was in charge of the store.

In view of above discussion I find that the management has failed to establish the charge against the workman and hence there was no basis before the management to punish the workman by way of dismissal from service and hence I find that the act of the management in dismissing the workman viz. Shri Swadhin Banerjee was unjustified. Accordingly the order of dismissal is set aside and the management is direct to reinstate the workman in service. Neither the workman has pleaded that he was not gainfully employed anywhere nor the management has pleaded that the workman was gainfully employed anywhere during the period after dismissal of service. In case of Bishambhar Lal Kapoor Vs. Allahabad Bank reported in 2002(93) FLR-1223 Hon'ble Delhi High Court has held that burden lies upon the management to prove the fact that the workman was gainfully employed and if the management fails to discharge the burden in case of reinstatement in service the workman will be entitled to full back wages. Considering the facts and circumstances of the case and also the fact that the order of dismissal was illegal the workman will be entitled to full back wages. In the above manner the award is passed.

RAMJEE PANDEY, Presiding Officer.

नई दिल्ली, 10 जनवरी, 2003

का. आ. 487.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम.सी.एल. के

प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर (संदर्भ संख्या 389/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-01-2003 को प्राप्त हुआ था।

[सं. एल-22012/134/2000-आई आर (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 10th January, 2003

S.O. 487.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 389/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of MCL and their workman, which was received by the Central Government on 9-01-2003.

[No. L-22012/134/2000-IR(C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT: Shri S.K. Dahal, OSJS (Sr. Branch)
Presiding Officer, C.G.I.T.- Cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 389/2001
Date of conclusion of hearing—30th Dec. 2002
Date of Passing Award-30th Dec. 2002

BETWEEN:

1. The Management of the Chief
General Manager, Jagannath Area of
M.C.L., P.O. Dera, Dist. Angul.
2. Shri Bimbardhar Sahu, Contractor
Jagannath Area of MCL, E-33,
Housing Board,
FCI, P.O. Vikrampur,
Dist. Angul ... 1st Party-Management

AND

Their Workman represented through
The General Secretary, Talcher Coal
Mines Employees Union, At. AITUC
Office, Subash Ghosh Complex,
Lingaraj Road, P.O. Talcher, Dist.
Angul. ... 2nd Party- Union

APPEARANCES:

Shri G.B Mohapatra
Personnel Manager
... For the 1st Party
Management No. 1.

Shri Bimbadhar Sahoo,
Contractor

...For Himself, 1st Party,
Management No. 2.

Shri Debasish Ghosh,
General Secretary

... For the 2nd Party/Union

AWARD

The Government of India in the Ministry of Labour in exercise of Power conferred by clause (D) of Sub-section (I) and Sub-section 2(A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-22012/134/2000-IR to C-(II), dated 16-04-2001:

"Whether the contract work i.e. Sanitation work awarded to Shri Bimbadhar Sahoo, Contractor, is sham? If yes, what relief Smt. Pushpanjali Bhutia is entitled to?"

"Whether the service of Smt. Pushpanjali Bhutia has been terminated? If yes, what relief she is entitled to?"

2. The 2nd Party who was representing the disputant Smt. Pushpanjali Bhutia in his Claim Statement had pleaded that the contract work, i.e. the sanitation work was given to the Management No. 2 (Shri Bimbadhar Sahoo) and the disputant was engaged from 1-5-1994 but subsequently her services was terminated on 1-11-1999 without any cause. According to the 2nd Party, the contract work stated to have been given to the Contractor (Management No. 2) is a sham transaction and the termination of Smt. Pushpanjali Bhutia is illegal. He has prayed to declare that the contract is a sham contract and the disputant, Smt. Pushpanjali Bhutia shall be entitled to be treated as MCL employees from the date of her joining.

3. The 1st Party-Management had filed their Written Statement denying the case of the 2nd Party. The 1st Party Management No. 1 (MCL) has taken stand that the disputant was not their employee and she is a contract worker. The 1st Party-Management No. 2, the Contractor has taken the stand that, the disputant was engaged by him as unskilled workman and she was asked to perform the duty of eight hours per day. He has further taken the stand that the disputant herself did not attend the work and all the payments were made to her by him.

4. On the above pleading of the parties, the following Issues have been settled.

1. Whether this Tribunal has got jurisdiction to entertain the reference in view of the fact that the matter relates to Contract Labour (R & A) Act?
2. Whether there is relationship of employee and employer between the 1st Party-Management i.e. Chief General Manager, Jagannath Area of MCL and the 2nd Party Smt. Pushpanjali Bhutia?
3. Whether the contract work i.e. sanitation

work awarded to Shri Bimbadhar Sahoo, Contractor is sham?

4. Whether the service of Smt. Pushpanjali Bhutia has been terminated?
5. To what relief the 2nd Party, Smt. Pushpanjali Bhutia is entitled?

5. When the case was posted for hearing, both the parties have filed the Memorandum of Settlement and have prayed to pass Award as per the terms of the Memorandum of Settlement.

6. Reference is answered accordingly and the Award is passed as per the terms of the Memorandum of Settlement, which would form the part of the Award.

S.K. DHAL, Presiding Officer.

नई दिल्ली, 10 जनवरी, 2003

का. आ. 488.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, एफ.सी.आई. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण कोलकाता (संदर्भ संख्या 34/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-01-2003 को प्राप्त हुआ था।

[सं. एल-22012/173/97-आई. आर. (सी. II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 10th January, 2003

S.O. 488.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 34/1998) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of FCI and their workman, which was received by the Central Government on 9-01-2003.

[No. L-22012/173/97-IR(C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 34 of 1998

PARTIES : Employers in relation to the management of F.C.I., Kolkata

AND

Their workmen.

PRESENT :

Mr. Justice Bharat Prasad Sharma

..... Presiding Officer

APPEARANCE :

On behalf of Mr. K.K. Chattopadhyay, Advocate.

MANAGEMENT: Mr. A. Bhattacharya, Advocate and
Mr. S.P. Chowdhury, Advocate.

On behalf of Mr. M. Dutta, Advocate.
Workmen :

State : West Bengal. Industry : Food Corpn.

Dated : 18th December, 2002.

AWARD

By Order No. L-22012/173/97-IR (C.II) dated 30-07-98 the Central Government in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Dispute Act, 1947 referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of F.C.I. in abruptly discontinuing the payment of Overtime allowance as per Shops and establishment Act at double rate for the period from 5 P.M. to 6 P.M. to the departmental workers engaged in their establishments situated in the States of West Bengal, Assam, Bihar, Orissa and NEF states is justified and legal? If not, to what relief the workmen are entitled to ?"

2. The present dispute has been raised on behalf of the Food Corporation of India Workers's Union, Calcutta regarding payment of overtime allowance at uniform rate of twice the normal wages for the entire period of work after regular working hours as differentiation was made by the management of F.C.I. between the period of one hour after the actual working hours and statutory working hours and the period after statutory working hours. So far as the period of actual or effective working hours and the statutory hours is concerned, the rate has been fixed at one and half time of the normal wages and for the period after the statutory hours, i.e., 8 hours daily or 48 hours weekly has been fixed at the rate twice of the normal wages.

3. From the written statement filed on behalf of the union it appears that the Food Corporation of India, hereafter to be described as FCI was constituted by an Act of Parliament in 1964 with the object of procuring foodgrains, storing and distributing the same to the different parts of India, including the state of West Bengal. It is also stated that the present union is the only representative organisation of the workmen of the FCI throughout India, including the state of West Bengal. It is stated that overtime payment was being made to the departmental workers in West Bengal in terms of the memorandum of settlement dated 15th February, 1972 according to the provisions of the West Bengal Shops & Establishment Act, 1963. In item No. 9 of the aforesaid settlement it was provided that the Shops & Establishments Act is applicable to FCI godowns and

henceforth payment of overtime will be made as per provisions of the Shops & Establishments Act subject to approval of the FCI Head Quarters. Accordingly, the scheme was implemented on the approval of the Head Office of FCI. It is further stated that the payments were being made in according with this decision and approval as per provisions of the West Bengal Shops & Establishments Act at 1-1/2 times for the entire hours over 7 hours of work on a day and 42 hours in a week and this mode of payment of overtime continued till the time when the provisions of payment of overtime was increased from 1-1/2 to 2 times under the amendment to the West Bengal Shops & Establishment Act in 1988. It is further stated that the present dispute arose when the management of FCI issued an instruction through a letter dated 08-06-1992 to the effect that the first one hour of work beyond effective hours of shift of daily work are to be paid at the rate of 1-1/2 times of their ordinary rate and for the subsequent hours at double rate as per Shops & Establishment Act, 1963. It is further stated that the payment of overtime from 1972 onwards was being made to the workers as per the provisions of the West Bengal Shops & Establishments Act, 1963 in terms of the agreement dated 15-02-1972 and the payment of overtime beyond 7 hours became the service condition of the workmen concerned and for any change of such service condition, the provisions of Section 9A of the Industrial Disputes Act, 1947 was attracted. It is stated that the FCI management did not comply with this legal provision before issuing the above instruction of overtime payment at 1-1/2 rate for the first hour of overtime work, thus, clearly changing the condition of service of the workmen. It is further stated that the terms regarding payment of overtime as per Shops & Establishments Act, 1963 as per aforesaid agreement dated 15-02-1972 still continues to be in force as no notice was served by the management regarding termination of the aforesaid agreement as per the provisions of the Act. It is further stated that besides the West Bengal Shops & Establishments Act do not debar the employer to fix duty hours less than the prescribed 48 hours of work in a place of work and once effective duty hours have been fixed at 7 hours a day or 42 hours a week, the FCI management is legally bound to pay overtime for the entire period of work done beyond 7 hours a day or 42 hours a week as per the provisions of the West Bengal Shops & Establishment Act. It is also further stated that it is obligatory on the part of the FCI management to pay overtime at double rate for the entire hours of overtime work over 7 hours a day or 42 hours a week. It is also stated that the rate regarding overtime payment to the departmental workers of FCI in the states of Orissa, Bihar and Assam is similar to that of the state of West Bengal and admittedly the provisions of the West Bengal Shops & Establishment Act apply to the states of Bihar, Orissa, Assam and N.E.F. states which will be evident from the Mitra Award.

It is further stated that in the states of Bihar, Orissa and Assam the overtime wages were being paid at double rate of the daily ordinary wages beyond 7 hours of their effective duty hours per day as per the provisions of the Shops & Establishments Act of the respective states and such mode of payment for overtime work to the workman continued by the management of FCI from 1971 to June, 1981. It is further stated that payment of overtime to the workers in the states of Bihar, Orissa and Assam as per the provisions of the Shops & Establishments Act at double rate beyond 7 hours of effective duty per day became their service condition. It is further stated that in June, 1981 the management of FCI issued an instruction on 9-6-1981 and introduced payment of overtime wages at the rate of 1-1/2 times of their normal wages for the first one hour of overtime work beyond 7 hours of effective duty a day instead of payment at double rate of the ordinary wages for the same. It is also further stated that the above action of the FCI management amounted to curtailment of their existing facilities regarding payment of overtime wages which they were enjoying since long and it amounted to change in their service condition without notice under Section 9A of the Act and, therefore, such action of the management is illegal and unjustified. It is further stated that after the aforesaid illegal and mala fide action of the management, the union made several representations to the management, but in vain. Therefore, ultimately, the union raised a formal industrial dispute before the Regional Labour Commissioner (Central) and the conciliation proceeding was started, but because of the unreasonable attitude of the management, the conciliation could not materialise and the failure report was sent to the appropriate Government and the present reference was made. In this circumstance, it has been prayed on behalf of the union that the reference be answered in favour of the workmen and relief be granted to them regarding overtime allowance at double rate throughout.

4. The management also filed a written statement through an officer of the management in the rank of Deputy Manager (IR). It has been stated on behalf of the management that save and except what is admitted and save and except the matters of record, all allegations and statements made on behalf of the union are denied. It has been stated that the Food Corporation of India Workers Union is not the only representative of the workmen of F.C.I. throughout India as claimed and there are many other unions who represent the interest of the workmen of FCI and enter into agreement with the management from time to time. It is also further stated that a memorandum of settlement was arrived at on 15-02-1972 between the management and the union regarding the demands raised in the strike by the workmen and according to paragraph 19 of the said settlement, Overtime allowance was agreed to be paid. It is further stated that in the aforesaid memorandum of settlement dated 15-2-1972 it was settled

that the Shops & Establishments Act was applicable to FCI godowns and henceforth the payment of Overtime work would be made as per provisions of the Shops & Establishments Act subject to the approval of the Head Quarters of FCI. It is stated that the FCI complied with the provisions of the Shops & Establishments Act and after the agreement the payment of overtime had been made at the rate of 1-1/2 times for the entire hours over 7 hours of work. It is stated that as a matter of fact, for the first one hour of overtime beyond 7 hours, the overtime was paid at the rate of 1-1/2 times and beyond the statutory hour of 8 hours, overtime was paid as fixed by the W.B. Shops & Establishments Act and incidently that rate was also 1-1/2 times at the relevant time, the same rate became payable throughout. It is stated that there was no point of dispute initially as raised by the union and the FCI paid to the departmental workers overtime allowance at twice the ordinary rate of wages in terms of the amended Section 13 of the West Bengal Shops & Establishments Act beyond 8 hours a day from the date of publication of the amended provision of the W.B. Shops & Establishments Act as published in the Official Gazette, but for the overtime beyond the usual 7 hours and within the specified 8 hours the rate was at the rate of 1-1/2 times only. It is further stated that FCI did not make any change in the service condition of the departmental workers as alleged and it is also further stated that the workmen also agreed with the above contention of the management regarding payment procedure of overtime within statutory period of 8 hours and beyond the statutory period of 8 hours and memorandum of understanding was arrived at between them on 13-6-1994. It is stated that in Point No. 4 of the aforesaid agreement it is stated that the departmental workers shall be paid overtime allowance for the intervening period beyond normal duty hours and upto statutory hours of working as prescribed under the respective Shops & Establishments Act @ 1.25 time of the daily normal wage wherever the departmental labourers are engaged on overtime work, but in the states of West Bengal, Bihar, Orissa and Assam the overtime allowance for such intervening period was to be regulated as per the existing practice, i.e., @ 1-1/2 times of the normal wages and it was also provided that as per the provisions of the Shops & Establishments Act for the work done beyond the statutory hours of work the rate of payment of overtime shall be twice the normal rate. It is also further stated that though FCI had obtained exemption from the application of the respective Shops & Establishments Act of the States concerned, FCI complied with the provisions of overtime as per Shops & Establishments Act of the respective states and the management relied on the Memorandum of Understanding dated 13-6-1994. In this view of the matter, it is denied on behalf of the management that the management has either changed the service conditions of the workmen or has been arbitrary in the matter of application of the rates on different scales for the aforesaid

two periods. Accordingly, all the allegations have been denied and it is said that the respective Awards and the provisions of the Shops & Establishments Act are being complied with and observed by the management properly and the allegation is incorrect that the management has arbitrarily changed the service condition. It has been stated that in the instruction issued by the management on 9-6-1981 the provisions of the Mitra Award were made applicable and it was provided that the payment at double rate beyond 8 hours which was existing prior to 1981 should continue in the respective states. It is stated that initially there was no objection on the part of the workmen, but subsequently after long lapse of time the union has taken-up this matter by raising the present dispute and, therefore, it is submitted that the relief sought by the union should be refused and rejected.

5. Both the parties adduced evidence, oral as well as documentary in support of their respective cases. So far as the oral evidence is concerned, the union examined WW-1, Dulal Chandra Nath who happened to be the Assistant Secretary of FCI Workers' Union and is also a workman of FCI. It is stated by him that on 23-2-1973 there was a circular regarding payment of overtime to the workers of Calcutta Complex. These workers were departmentalised in the first phase on 15-1-1970 and in the second phase in June, 1970 and thereafter in the third phase in May, 1971. He stated that the circular dated 23-2-1973 was issued after the departmentalisation was complete, but the effect was given from the date of departmentalisation of the respective workers. It is also stated that the duty hours were deemed from 9 A. M. to 5 P.M. with one hour lunch break and any work done beyond it was deemed to be overtime. He stated that according to the circular rate of overtime was fixed at 1-1/2 time of the original rate of wage. According to him the circular remained in effect till 1992 so far as the rate of payment of overtime was concerned and in 1992 the rate of overtime was doubled with effect from January, 1988 through a circular dated 8-6-1992 and the other circulars dated 15-5-1992 and 02-06-1992. It is also stated that there was a settlement between the management and the union on 15-02-1972 regarding payment of overtime as per provisions of the West Bengal Shops & Establishments Act and regarding the workers of Bihar, Orissa and Assam the decision was taken in the Mitra Award in accordance with the West Bengal Shops & Establishments Act. He further stated that actually overtime allowance is not paid for the overtime done between 5 P.M. to 6 P.M. which continued to be 1-1/2 times only. He further stated that in a circular dated 09-06-1981 the overtime was explained. According to this witness the duty hours of the workmen of West Bengal has been changed to 10 A. M. to 5 P. M. with one hour of recess with effect from 1994. He also stated that so far as the workmen of Bihar, Orissa, Assam and

N.E. States are concerned, it was from 9 A.M. to 6 P.M. with one hour recess. He further stated that by introduction of Mitra Award, the working hour was changed from 9 A.M. to 5 P.M. with one hour recess. He also further stated that Mitra Award also made provisions for payment of overtime allowance for one hour of extra work done at the rate of 150% like Calcutta Complex. According to him the overtime payments were made from January, 1988 onwards instead of amendment made in the Act and no notice under Section 9A of the Act was given by the management. According to him the claim of the union is that the payment should be made at double rate instead of 1-1/2 rate for work done beyond 5 P.M. upto 6 P. M. to the workmen of the region concerned. In his cross-examination, some questions have been asked to him regarding their claim of being the only union to represent the cause of the workmen and he stated that though there are some local unions also in the several regions, so far as the all India picture is concerned, the present union represents 95% of the workmen of FCI. He has admitted that the decision of the Memorandum of Settlement dated 14-2-1972 was made applicable after receiving approval of the FCI Head Quarters. He has further stated in his cross-examination that he has no knowledge of the notification of the Labour Dept. of Government of West Bengal dated 14-9-1984 and he has also knowledge of the notification of Orissa Government of November, 1984 and of the Bihar Government dated 27th June, 1985. He has also stated that he has no knowledge of the agreement dated 13-6-1994 and has stated that the circular of 1992 was not on the basis of the agreement and the agreement is applicable to the workers of this region. According to him the settlement of the year 1972 was an all India settlement and similarly the settlement of 1994 also an all India settlement.

6. The management, on the other hand, has examined one Subrata Kumar Dey who happens to be the Deputy Manager, Central Zonal Office, Calcutta of the FCI. He has stated that the departmentalisation was done in Calcutta in 1970 while it was done in Bihar, Orissa, Assam and N.E. states in 1973. He also further stated that there was a tripartite settlement on 14-02-1972 which was signed on 15-2-1972 between the management and the Worker's Union before the Regional Labour Commissioner. By this he means Ext. W-6. According to him in Item No. 19 of this settlement provision was made for payment of overtime and it related to Calcutta Complex workers only and not regarding the workers of Bihar, Orissa and Assam. He further stated that there was a circular by FCI on 23-2-1973 regarding payment of overtime wages to the workers of Calcutta Complex on the basis of the aforesaid settlement which was also not meant for the workers of Bihar, Orissa and Assam. He has further stated that the Award dated 10-10-1974 is

known as Mitra Award and by this Award the wage structure of the workers of Bihar, Orissa and Assam were brought at par with the employees of the Calcutta Complex. He stated that in paragraph 6 of the Award it is provided that the overtime wages were to be paid to all the workers @ 1½ time. He further stated that in circular dated 09-06-1981 regarding implementation the Mitra Award the points for implementation of the Award, including working hours, have been clarified. The witness further stated that at the time of implementation of the Award the rate payable as overtime wages was 1½ times as in the West Bengal Shops & Establishment Act. He further stated that in 1992 there was a dispute regarding this matter and the dispute was raised before the Deputy Chief Labour Commissioner, Dhanbad and there was a Memorandum of Understanding signed on 17-06-1994 which is referred to as Ext. M-2. He further stated that according to this M.O.U. in Clause 4 of paragraph 1 for Bihar, Bengal, Orissa and Assam for the intervening period they were to be paid at the existing rate and after the statutory hours the overtime was to be paid as per the respective Shops & Establishment Act. He further stated that the existing practice is that for the intervening period the rate of overtime is 1½ times and for the work after the statutory period as per the respective shops & Establishment Act. In his cross-examination, the witness has stated that the workmen are not entitled to the O.T. Allowance from 1988 as claimed by them. He has also stated that before 1994 the effective working hours was 7 hours, i.e., from 9 A.M. to 5 P.M. with one hour recess and after 1994 the effective working hours become 6½ hours, i.e., from 10 A.M. to 5 P.M. with half an hour of recess. He also further stated that the Standing Orders of FCI for the workmen regulate the workings and the overtimes being paid on the basis of the West Bengal Shops & Establishment Act and according to him the workmen are not entitled to overtime at double rate between 5 P.M. to 6 P.M. In his cross-examination, he has also stated that he has no knowledge whether the settlement of 14-02-1972, Ext. W-6 has ever been terminated and according to him till the end of 1987 overtime payments were being made strictly in terms of Item No. 19 of the settlement. He further stated that in 1988 provisions of Section 13 of the West Bengal Shops & Establishment Act was amended and rate of payment was enhanced from 1.5 times to double rate. He further said that from 1988 FCI started making payment according to the amended provision of the Act and the rate is applicable to the period after the expiry of the schedule duty hours of 8 hours, i.e., after 6 P.M. He has denied the suggestion that according to the provisions of the settlement, Ext. W-6 the Company had to make payment from 5 P.M. onward itself. He also denied the suggestions that according to the provisions in paragraph 7 of the circular dated 09-06-1981, the management has to pay double rate beyond 7 hours. He has admitted that he is

not in a position to follow the spirit of circular dated 23-02-1973, Ext. W-1. He has stated that he cannot say whether the said circular was superceded or recalled and he also does not know whether there was any circular or instruction making clarification for payment of overtime wages by the management. It has been suggested to him that the decision of making overtime payment at 1½ rate after the amendment of the Shops & Establishment Act is arbitrary action of the management. He has also denied the suggestions that payment of overtime wages has become part of the working condition of the workmen and he agrees that the settlement of 1972, Ext. W-6 has statutory forces which means that it is binding on both the management and the workmen. He has denied the suggestions that not making payment of overtime wage at double rate after the amendment of the Shops & Establishment Act amounts to violation of the statutory provisions. It was also suggested to him that there was no justification in not making payment at double rate of overtime as per the amended provision of the Shops & Establishment Act, which he denied. He also denied the suggestion that the management had no power and authority to change the system of overtime payment without giving notice under Section 9A of the I.D. Act.

7. So far as the documents are concerned, Ext. W-1 is the circular dated 21-02-1973 issued by the Zonal Manager of Calcutta regarding implementation of the terms of Item No. 19 of the Memorandum of Settlement dated 15-02-1972 in which it has been stated that the overtime work will start immediately after the scheduled working hours, i.e., after 8 working hours including recess. Ext. W-2 is the said controversial letter issued by the Joint Manager (IR) of the Eastern Zone, Calcutta to the Regional Managers of FCI at Bhubaneswar, Patna and Assam and N.E.F. regions. In this letter in paragraph 7 it has been stated that according to the instruction of the Zonal Office, first one hour of work beyond 7 hours effective shift are to be treated as overtime for which the workers are to be paid @ 1½ time of their ordinary rates and for subsequent hours, they are to be paid O.T. at the rates as per the Shops & Establishment Act which is double the rate. Paragraph 8 also give the manner of determination of hourly rate of O.T. This letter has been filed and marked Ext. M-1 on behalf of the management. Ext. W-3 is the letter issued by the Regional Manager, West Bengal Region to the district Managers of Calcutta Complex regarding implementation of the schedule regarding payment of overtime wages. It is dated 08-06-1992 Ext. W-4 is the letter of the Manager (IR) of the Head Office of FCI at New Delhi to the Zonal Manager, East and from this letter it appears that the proposal for payment of O.T.A. at twice the ordinary rate of wages in terms of amended Section 13 of the West Bengal Shops & Establishment Act beyond 8 hours a day as approved. Ext. W-5 is the letter of Deputy

Manager (IR) of the Zonal Office Calcutta to the Senior Regional Manager, Calcutta. It is dated 02-06-1992. In this letter was pointed out that it was intimated by the Head Quarters that the payment of O.T.A. beyond 7 hours effective shift was to be regulated in terms of the instruction issued vide Zonal Office Circular dated 09-06-1981, i.e., Ext. W-2, Ext. W-6 is the Memorandum of Settlement dated 14-02-1972 by which the provision of payment of overtime allowance was made in Item No. 19. From this Item No. 19 it appears that after considering the suggestion of the Regional Labour Commissioner the FCI had decided to make payment of overtime wages to the workmen as per the provisions of the Shops & Establishment Act, subject to approval of the Head Quarters. Ext. W-7 is the Award of the Arbitrator, known as Mitra Award. In this Award it was suggested that the payment at the rate as per the West Bengal Shops & Establishment Act be also made applicable to the workmen of Bihar, Orissa, Assam and N. E. States. Ext. W-8 is a letter of the Joint Secretary of the Union to the Senior Regional Manager, FCI, Calcutta on 11-02-1992 by which a request was made to make applicable the amended provision of the West Bengal Shops & Establishment Act. Ext. W-9 is the letter issued to the Regional Labour Commissioner (Central) by the Joint Secretary of the union raising the dispute formally.

On the other hand, so far as the management is concerned, Ext. M-1 is the letter issued by the Joint Manager (IR) which is corresponding to Ext. W-2, as stated earlier. Ext. M-2 is a Memorandum of Settlement dated 13th June, 1994 in which Clause (iv) of paragraph 1 deals with the matter in issue. It was mentioned in this clause that the O.T.A. for the intervening period beyond normal duty hours and upto statutory hours of work as prescribed under the respective Shop & Establishment Act had to be paid @1.25 time of daily normal hourly wage to the departmental labourers, but so far as the workmen of the West Bengal, Bihar, Orissa and Assam Regions for such intervening period the payment of O.T.A. was to be regulated as per the existing practice, i.e., 1.5 times of the normal hourly wage. Ext. M-3 is the order issued by the State Government in the Labour Department regarding exemption of the FCI from the application of the West Bengal Shops & Establishment Act, 1963. Ext. M-4 is the similar notification of the Govt. of Orissa regarding exemption and Ext. M-5 is a notification of the Govt. of Bihar on similar lines.

8. So far as these notifications Exts. M-3, M-4 and M-5 are concerned, it was contended on behalf of the management that the FCI has got exemption order from the application of the Shops & Establishment Act by the respective Governments, but it is of no use for the present purpose because it was decided by the management of FCI itself that the overtime payments shall be made to the workmen on the basis of the provisions of the Shops & Establishment Act of the various States.

9. It has been submitted on behalf of the union that when the implementation of the provision of the West Bengal Shops & Establishment Act in the matter of payment of overtime was accepted through memorandum of settlement date 14-02-1972, no distinction was made between the working hours as effective working hours and statutory working hours and the said settlement has neither been withdrawn nor terminated. Therefore, the subsequent order of the management in making differentiation between the two situation is arbitrary. In this connection, it has been submitted that because the rights accrued to the workmen through this settlement, it became their vested right and it should be treated as their service condition and it could not have been disturbed or distorted without a notice under Section 9A of the Act, which has not been done in this case and, therefore, according to the learned Advocate for the union the subsequent order of the FCI in distinguishing between the two types of overtime period is illegal. In this connection, the learned Advocate for the union also relied on the decision of the hon'ble Supreme Court in the case of the workmen of Calcutta Electric Supply Corp. Ltd. V. Calcutta Electric Supply Corp. Ltd. (AIR 1973 SC 2143). It appears that in this case there was an appeal preferred by the workmen against an Award of the Industrial Tribunal of West Bengal regarding the manner of calculation of overtime wage for non factory persons of Calcutta Electric Supply Corporation. It appears that the question which was referred to the Tribunal for adjudication was framed by the Government of West Bengal in the following term:

"How wages for non-factory personnel (including the members of the clerical staff) should be calculated and the date from which overtime wages for such personnel should be thus calculated?"

It appears that the Tribunal in its Award directed that the overtime rate for the non-factory personnel should in no case be less than time rate and the tribunal further directed that no employee should get overtime at more than the time-rate until he has completed 48 hours a week but that as soon as he exceeds 48 hours, the overtime rate should be 1½ times the time rate and the workmen went to the Hon'ble Supreme Court in appeal against this order. Their Lordships while considering the points to be decided considered the case of Indian Oxygen Ltd. V. Their Workmen (AIR 1969 SC 306). In that case the employees made various demands of which Demand No. 3 was that the payment of overtime to the office staff should be 1½ times the ordinary rate beyond their normal duty hours. It appears that as regards this demand the contentions urged on behalf of the appellant company were two fold. First that under the Bihar Shops & Establishments Act the company could be made liable to pay for overtime work at the rate provided in that Act at double the ordinary rate when a workman was asked

to work beyond 48 hours a week as provide in that Act. Therefore, it was argued that the Appellant company could not be asked to pay more than the ordinary rate of wages payable to workman if they were asked to work beyond 39 hours by not beyond 48 hours. The second argument was that if the company were to pay 1½ times its ordinary rate of wages for overtime, it will be paying more than other similar concerns and their Lordships rejected both the contentions and it was observed "In our judgment both these contentions are unsustainable. Under the conditions of service of the company, the total hours of work per week are 39 hours. Any workman asked to work beyond these hours would obviously be working overtime and the company in fairness would be expected to pay him compensation for such overtime work. The Bihar Shops & Establishments Act has no relevance to this question as that Act fixes the allowable thereunder, i.e 48 hours a week, and provides for double the rate of ordinary wages for work done over and above 48 hours. It is not, therefore, as if the provision of that Act govern overtime payment payable by an employer where maximum hours of work are governed by the conditions of service prevailing in the establishment. Therefor, no reliance can be placed on the provisions of that Act for the Company's contention that it cannot be called upon to pay for overtime work anything more than its ordinary rate of wages if the workman do work beyond 39 hours but not exceeding 48 hours a week. It is obvious that if the company were asked to pay at the rate equivalent to the ordinary rate of wages for exceeding 48 hours work a week. It would be paying no extra compensation at all for the work done beyond the agreed hours of work. The company would in that case indirectly increase the hours of work and consequently altering its conditions of service." Their Lordships on consideration of the observations made in the above referred case held, " In this view of the matter, we felt inclined to allow the appeal and to set aside the Award of the Tribunal and to direct that the overtime is to be paid for at 1½ times the hourly rate for all hours of work beyond the scheduled hours merely for hours of work beyond 48 hours in a week. This was to apply as from the date of our order. It was, however, represented hours on behalf of the company that in respect of the period between the date of the Award and the date of our judgment, the total amount involved as a result of this increase proposed to be sanctioned by us in overtime rate will be about Rs. 60 lakhs which the company, we were told, has not the capacity to pay. This might have necessitated a remand to the Tribunal on the question of capacity but the counsel for both the parties have in order to avoid any delay in the disposal of the matter agree-very rightly and properly, in our opinion,—to a suggestion made by us that in respect of the past period overtime payments for hours worked in excess of the scheduled hours upto 48 hours should be at 1½ times

the hourly rate instead of the hourly rate which the company has already paid in terms of the Award." On this basis it has been submitted by the learned Advocate for the union that the discrimination between the two periods could not have been made by the management.

10. On the other hand, it has been contended on behalf of the management that the management has not done anything arbitrarily; rather, it has followed the principles laid down by their Lordships of the Hon'ble Supreme Court in the case of *M/s. Philips India Ltd. V/s. Labour Court, Madras & Ors.* (1984-II-LLJ 33). In this case also the matter involved was as to what should be the rate payable as overtime to the workmen working beyond their duty hours. After hearing the contentions of both the parties and after considering the earlier cases including the two cases referred to above it was observed by their Lordships, "Both the employers have prescribed the rate of overtime wages at 1½ times of the ordinary wages for overtime work in excess of its prescribed hours of work and up to the maximum permissible under S. 14 (1). Therefore, they cannot be accused of indirectly extending their working hours. Both employers conceded that for work for a period in excess of the maximum permissible hours of work under the statute must be paid for and is being paid for at the rate prescribed in the statute. In our opinion, therefore, the High Court was in error in directing the employers to pay for overtime work in excess of the prescribed hours of work and upto the maximum permissible under S. 14(1) at double the ordinary wages by invoking S. 31. For these reasons, both these sets of appeals will have to be allowed and the common judgment of the High Court governing all the five writ petitions as well as the common orders of both the Labour Courts will have to be quashed and set aside and the applications made by the employees under S. 33C(2) of the I.D Act will have to be dismissed." In this connection it was also earlier observed by their Lordship while considering the contentions of the respective parties that the decision in *Indian Oxygen case* supported the submission that where the employer prescribed working hours per day or total number of hours of work per week less than maximum permissible under the statute, any work taken in excess the prescribed hours of work would be overtime work and the employer would be liable to pay some compensation, but not according to the statutory compensation, which would be attracted only when the employer takes work in excess of the maximum hours of work prescribed by the statute. Their Lordships have observed in this connection that the rate provided either in Award or in a settlement has to prevail. In this connection it has been submitted on behalf of the management that in the memorandum of settlement dated 13-06-1994 arrived at all India level, it was very clearly mentioned that the departmental labourers shall be paid overtime Allowance for the intervening period beyond normal hours and upto statutory hours of work as prescribed under the respective

Shops and Establishment Acts in a day @ 1.25 times of the daily normal hourly wages, but it was, however, mentioned that in West Bengal, Bihar, Orissa and Assam Regions the Overtime Allowance for such intervening period shall be regulated as per practice. It is admitted that the existing practice was payment of overtime for this period at the rate of 1½ times of the normal wages.

11. Therefore, in view of this memorandum of settlement, Ext. M-2, there does not appear to be any reason to see that the decision of the management regarding distinction between the two periods, i.e., the period between actual working hours or effective working hours and the statutory working hours and the period after statutory hours is either arbitrary or improper. Since the agreement was signed by the union at all India level, there does not appear to be any reason to challenge the situation which is based on some rationale. In this circumstance, it was not necessary for the management to issue notice under Section 9A of the Act as contended on behalf of the management. The action of the management, therefore, does not appear to be arbitrary or illegal as alleged. The action, therefore, has to be held as legal and justified and the reference has to be answered accordingly.

12. The reference is accordingly answered in the affirmative and the workmen are held not entitled to any relief whatsoever.

B.P. SHARMA, Presiding Officer

Dated, Kolkata.

The 18th December, 2002.

नई दिल्ली, 10 जनवरी, 2003

का. आ. 489.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सी. आई. एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कोलकाता (संदर्भ संख्या 29/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-01-2003 को प्राप्त हुआ था।

[सं. एल.-22012/246/97-आई. आर. (सी. II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 10th January, 2003

S.O. 489.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 29/1998) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CIL and their workman, which was received by the Central Government on 9-01-2003.

[No. L-22012/246/97-IR(C-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 29 of 1998

PARTIES : Employers in relation to the Management of Coal India Limited

AND

Their Workman

PRESENT : Mr. Justice Bharat Prasad Sharma
.... Presiding Officer

Appearance:

On behalf of Management : Mr. A. Banerjee, Advocate with Mr. S. Mukherjee, Advocate.

On behalf of Workman : Mr. M. Dutta, Advocate with Mr. R.N. Paul, Advocate.

State: West Bengal : Industry: COAL

Dated, 19th December, 2002.

AWARD

By Order No. L.-22012/246/97/IR(CM-II) dated 29-07-1998 the Central Government in exercise of its powers under Section 10 (1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Dankuni Coal Complex, Coal India Ltd., in not regularising Sh. Prasanta Banerjee in technical grade 'C' from 1990 is justified? If not, to what relief is the workman entitled?"

2. The present dispute has been raised by the Coal Indian Employees' Union 10 N.S Road, Kolkata on behalf of a workman, Prasanta Banerjee, an employee of Grade-C of Dankuni Coal Complex at Dankuni, District-Hooghly, West Bengal. The matter relates to the demand of the workman concerned regarding his regularisation in the present Technical Grade-C with effect from 1990. As it was refused by the management, the industrial dispute was raised and the present reference has been made.

3. From the written statement filed on behalf of the union it appears that the Company concerned is a Government of India Enterprise under the administrative control of the Ministry of Coal. It is stated that the Dankuni Coal Complex is a direct unit of Coal India Ltd. and has a factory at Dankuni in the District of Hooghly for the purpose of manufacturing different products from the coal components. The Company has large number of engineers and technical persons and it employed about 700 workmen in the factory at the material time. It is also

stated that the Company is a premier public sector undertaking and is a prosperous unit of Coal industry having a high productivity of manufacturing, but it does not follow the laws of the land in respect of the labour matters and indulges in victimisation of the workes. It is stated that it does not tolerate trade union activities of workmen and always tries to nip any trade union activity in bud. It is further stated that the workmen of the factory in order to safeguard their rights and interest and for amelioration of the genuine grievances formed a trade union in the year 1974 and got it registered under the Indian Trade Unions Act, 1926. It is stated that since formation of the union, the workmen through their union have been agitating for amelioration of their grievances through peaceful and constitutional means on principle of collective bargaining and the union commands confidence of majority of the workmen employed in the factory. It is stated that Prasanta Banerjee has been serving in the Company since 29th April, 1989. He started his work on being appointed by the Company on the post of Operator-I (Gass Compressor) in technical Grade-D and he continued to serve to the best of his ability and stisfaction of the employer. It is further stated that being satisfied with his sincerty and devoted performance the management was pleased to promote him proform the duty of a Chargeman in technical Grade-C with effect from 1st. May, 1990. The Company also used to pay him difference of wages between the workman of Grade-C and workman of Grade-D for this purpose. It is stated that the management of the Company and the workmen represented by the Rashtriya Coal Mazdoor Sangh entered into a tripartite agreement on 27-11-1990 under Section 12(3) of the I.D. Act in presence of the Labour Commissioner. According to the conditions of the agreement it was decided to place in appropriate grades those of the employees who might be identified to have continuously worked in grdes in various departments for more than 240 days in Dankuni Coal Complex and it was also decided that the effect of such regularisation will be given from the date such employee is found to have completed 240 days in higher nature of job. It is further stated that the workman concerned worked for 241 working days from May, 1990 to February, 1991 in the post of Chargeman in techical Grade-C and continued in the same post till promotion on 01-04-1995. It is stated that during the year 1991 more than 140 workers who were performing higher nature of job were regularised in their respective next higher posts and grades against their performance in higher nature of jobs for 240 days in accordance with the terms of the aforesaid settlement. It is further stated that the union after scrutinising the names of the workers regularised in higher posts, discovered that the name of the workman concerned was not included in it and accordingly the workman represented his case to the managment against this discrimination. However, the management issued an

office order on 06-05-1995 regarding regularisation of the workman in higher post and to regularise them and the order was given effect from 01-04-1995, but not from the date from when the workman was working in higher grade, i.e., 1st, May, 1990. After the workman saw the order, he made a representation by this letter dated 16-08-1995 protesting agrainst his date of regularisaton. It is also stated that the workman concerned as well as the union made several correspondences with the management of the Company, but it had no effect. However, the workmen concerned made another application of representation on 27-08-1996 reiterating his demand for his regularisation with effect from 1st May, 1990, but his request was turned down by the management by order dated 17-10-1996. It is stated that the union thereafter espoused the cause of the workman concerned and raised an industrial dispute before the Assistant Labour Commissioner (Central), Calcutta and the A.L.C.(C) held conciliation proceedings, but due to uncompromising attitude of the management the conciliation could not succeed and the failure report was submitted accordingly the reference has been made. A prayer has been made on behalf of the union that the regularisation of the workman, Prasanta Banerjee to the higher post of Chargeman Grade-C should be made effective from 01-05-1990 and the order of the management in this connection be revised.

4. A written statement has been filed on behalf of the management also in which a part from other things, the maintainability of the reference and its propriety has been challenged, but the challenge is of formal nature only and does not require any serious consideration because the reference has been made by the appropriate Government on the basis of the failure report submitted regarding the dispute raised by the union. However, it has been submitted on behalf of the management that commercial production of Dankuni Coal Complex started in limited scale from May, 1990. It is stated that on 21st May, 1990 the Rashtiya Coal Mazdoor Sangh Forwarded a 25 point charter of demands which included the demand for regularisation to the appropriate grades of those employees who were deployed for doing jobs of higher grade. It is stated that the said charter of demands were discussed in detail and finally on appreciation of the proposal of the R.L.C. (C), the parties to the dispute agreed to sign a memorandum of settlement on 27th November, 1990. The various clauses of the settlement were as follows:

- (1) It is agreed to place in appropriate grade those employees who may be identified to have continuously worked in the higher garde in various departments for more than 240 days in Dankuni Coal Complex.
- (2) The idantification of such employees remained the prerogative of the management it was to be done by the management exclusively.

- (3) It was agreed that the effect of such regularisation will be given from the date of such employees found to have completed 240 days deployed in higher nature of job; and
- (4) It was finally settled that the dispute regarding regularisation will come to an end by this agreement and it will be for one time and in a very special case of dispensation.

Thus, it is stated on behalf of the management that the effect of the tripartite settlement dated 27-11-1990 was to be given on one time basis and as a special case. It is further stated that in terms of the tripartite settlement the management identified the employees who were found deployed in various other grades and the management regularised the employees who had completed 240 days on or before the date of agreement in the various categories on diverse dates upto 27-11-1990 and accordingly 129 workers who were found to have completed 240 days on or before 27th November, 1990 were regularised in the grades where they were deployed. It is also further stated that the workman concerned was appointed as Operator/GCP in technical Grade-C with effect from 29th April, 1989 and due to shortage of man-power the said workman was engaged as Chargeman with effect from 1st May, 1990 and he was paid difference of wages for the period he worked as a Chargeman as per rule of the Company. It is further stated that from the agreement it becomes clear that the employees who had completed 240 days of service on higher post as on the date of agreement, i.e., 27-11-1990 were to be regularised in the higher post, if the employee concerned had worked continuously for 240 days on that date and since the workman concerned had not worked for 240 days on that date, his case was not considered for regularisation. It is further stated that after completion of regularisation of all eligible employees in terms of the agreement, the Company by a notice dated 11th June, 1991 informed all concerned that no further benefit would be accorded to any workman. It is further stated that the usual criteria for promotion from technical Grade-D to technical Grade-C is that the incumbent must have worked atleast for 4 years in technical Grade-D and after completion of 4 years of service by the workman concerned, his case was considered alongwith others for promotion to technical Grade-C on the basis of recommendation of the Departmental Promotion Committee. It was done with effect from 1st April, 1995 in his case. In this light it has been stated on behalf of the management that all kinds of allegations in the written statement of the union, excepting for those which are matters of record, are denied. It has been specifically denied that there has been any discrimination in the case of the workman concerned and he has been given his due as he deserves. It has been categorically stated that as he was not

eligible for regularisation under the scheme of the tripartite settlement dated 27-11-1990, he was not selected for regularisation in the list published by the management of the Company. It has been submitted that there has been no contravention or violation of any rule or law by the management in doing so and the allegations are baseless and unfounded and accordingly a prayer has been made that the prayer of the union be refused and the reference be answered accordingly.

5. It appears that when the matter was pending adjudication a prayer was made on behalf of the union to direct the management to furnish some papers and documents in their possession and the management agreed to produce the same and it appears that on 07-08-2001 the management also produced those papers which are on record.

6. Both the parties adduced evidence in support of their respective stands in the written statement. For the union the workman concerned, Prasanta Banerjee, has been examined as WW-1. He stated that he joined service of the Dankuni Coal Complex on 28-04-1989 as Operator, Technical 'D', Grade-I and he was directed to perform the duties of Chargeman, Technical-C from 01-05-1990 as the post was vacant at that time. He further stated that while working there he was paid difference of pay between Technical-C and Technical-D. He further stated that he was officially promoted to the post of Chargeman Technical-C with effect from 01-04-1995. He further stated that for getting difference of pay from 1990 to 1995 he had submitted a formal claim. He further stated that as per tripartite agreement dated 27-11-1990 which is Ext. W-2, he should have been regularised on completion of 240 working days in higher nature of job and according to him he completed 240 days on 27-02-1991, but the management did not regularise him in the higher post from that date. According to him the management issued a letter on 17-10-1996, marked Ext. W-3 and informed him that his prayer for regularisation was turned down as it had no sufficient reason. He has stated that some other persons, like Santosh Kumar Roy, Nirnay Kumar Gangopadhyay and Arun Kanti Chakraborty were granted promotion from 02-08-1990 by office order, marked Ext. W-4. He has accordingly prayed for his regularisation with effect from 28-02-1991. In his cross-examination, he has stated that it is the Departmental Promotion Committee which decides the question of granting promotion to an employee and he was promoted to the post of Chargeman, Technical-C in 1995 on recommendation of the D.P.C. He also admitted that on 01-05-1990 he had started acting in higher post, but not by way of promotion. However, it has been suggested to him that he did not perform the duties of higher post since 28-02-1991 and he also admits that he has no paper to show that he had worked on higher post after that date.

He also further clearly admitted that he had not completed 240 days of work in higher post on the date of tripartite settlement, i.e., on 27-11-1990.

Another witness on behalf of the union is WW-2, Krishanu Chandra who happens to be the Secretary of the union. He said that he knew the concerned workman who had joined the Company on 28-04-1989 and he happened to be a member of his union. According to him the workman joined as Technical-D Operator in the Gas Compressor and presently he was working in Technical Grade-C. He also stated that the workman concerned has got assignment in Technical-C on 01-05-1990, but he was not regularised in Technical-C. The witness further stated that regarding regularisation there was a tripartite settlement dated 27-11-1990 and about 130 persons were regularised on the basis of this agreement, but the workman concerned was not regularised though he had completed 240 days of regular service in the higher grade. He has also stated that some persons who had not completed 240 days of service in the higher grade were also regularised. He has named some of such persons. According to him the services of the workman concerned should have been regularised in Technical-C with effect from 01-05-1990 when he had started working in that job. In his cross-examination, he has admitted that there is a Departmental Promotion Committee which considers the case of promotion of individual employee. He also stated that at the time when the concerned workman joined the service, the present union was not in existence and according to him the document by which the workman concerned was assigned the duty in Technical-C has already been produced and marked Ext. W-1. He also stated that there is no other document to show that the assignment of higher nature of job to the workman. He has further stated that the workman concerned was promoted in Technical-C on the basis of recommendation of the D.C.P. on 01-04-1995. In his cross-examination, he has stated that the document regarding promotion of other persons, such as, Dibyendu Ghosh have not been produced and the documents regarding details of calculation of working days of other persons have also not been produced. So far as the papers referred to him are concerned, he claimed that he had seen those papers, but he admitted that he did not have access to the documents of other departments and also the department in which he works. However, he admitted that the workman concerned had not completed 240 days of service in the higher grade on the date of tripartite settlement.

7. The management has examined, S.B. Das Mahapatra as MW-1. He claimed that he knew the workman concerned who had joined for the first time on 19-04-1989 as Operator Technical Grade-D and he was engaged in performing next higher technical job with effect from 1st May, 1990 on payment of difference of wages. He stated

that this arrangement was made because of the shortage of man-power in the higher post and some other persons were employed and engaged in higher grade according to necessity. He stated that Rashtriya Coal Mazdoor Sangh had made a charter of documents containing 24 points of demands including regularisation of those employees who were working on higher post and the matter was referred to the Labour Department. According to him subsequently a tripartite settlement was arrived at and signed on 27-11-1990. According to him in this agreement it was provided that those who have completed 240 days of work in higher post were to be regularised. According to him it was an one time settlement as a special case. He further stated that as per this agreement some regularisation were also made and thereafter the workmen were informed that the chapter of regularisation was closed. He further stated that the workman concerned was not regularised in higher post in accordance with this agreement as he had not completed the contemplated period of 240 days, but subsequently, he was promoted to the next higher grade in 1995 as Technical Grade-C. According to him the criteria for promotion happens to be the availability of posts on completion of 3 years of service in the existing post and there is no other criteria for the same. He also stated that the promotions are effected through the process of Departmental Promotion Committee and the workman concerned was also subsequently promoted on the recommendation of the D.C.P. He has also stated that a similar dispute regarding promotion of one Timir Sarkar was earlier referred to the Tribunal and his claim was refused. In his cross-examination, he has stated that the workman concerned had worked in the higher category till February, 1991 on payment of difference of wages. He further stated that the terms of settlement included that on the date of settlement the persons who had completed 240 days in a particular department to be regularised. He further stated that in Clause 4 of the agreement it is written that those persons shall be regularised in higher post who had completed 240 days. Accordingly, according to him other persons than those who had completed 240 days were not entitled to regularisation.

8. So far as the documents are concerned, Ext. W-1 is the details of service of the workman concerned and from this document it appears that the workman had been treated as an employee of Technical Grade-D along till he was promoted. Ext. W-2 is the memorandum of settlement dated 27-11-1990 which is a tripartite settlement. The terms have been specifically mentioned in the agreement. It appears from Clause 7 of the agreement that it was finally settled that the dispute in respect of regularisation of workman doing higher nature of job had come to an end as one time dispensation and as a very special case. Ext. W-3 is the letter issued by the management to the workman concerned on 17-10-1996. It was in response to his representation dated 27-08-1996. By this letter the workman was

communicated that he was engaged in higher grade for a few months with difference of wages between grade-D and Grade-C. He was also further informed that the tripartite agreement was arrived for the employees who were engaged in the higher grade, but not paid difference of wages and moreover, his engagement in higher grade was not during the period of tripartite settlement which was one time dispensation and accordingly his case was not considered for regularisation. It was also stated that later on he was promoted to Technical Grade-C with effect from 01-04-1995 and, therefore, his representation was not fit to be allowed. Ex. W-4 is a paper through which regularisation of some employees were made, but this relates to three persons from Operator-II Grade-E to Operator-I Grade-D. This document does not go to help the case of the workman or the union. Ext. W-5 goes to show that the matter of regularisation had come to an end with the regularisation of the persons found eligible on the basis of the settlement. Ext. W-6 is some modification in the order dated 16-02-1992 regarding change of designation. It is not relevant. Ext. M-1 on behalf of the management is a complete seniority list of the workers of the departments.

9. So far as the point required for determination and for adjudication is concerned, it relates to whether the workman concerned was entitled to be regularised in Technical Grade-C with effect from 01-05-1990 as claimed in the written statement of the union. It may be noted in this connection that the workman has admitted in his evidence that he had not completed 240 days on the date of agreement, i.e., 27-11-1990 and that he completed this period on 28-02-1991 and he also stated in his evidence that he prayed for regularisation from the date of completion of 240 days, i.e., 28-02-1991. So, his statement does not even supports the claim as made in the written statement of the union or as mentioned in the schedule of reference, which relates to regularisation with effect from 1990.

10. So far as some facts are concerned, the same are admitted. It is admitted that the workman concerned had joined service in Technical Grade-D as Operator on 28-04-1989. It is also admitted that he was deputed temporarily to work as Chargeman Technical Grade-C on 01-05-1990 because of shortage of hand in the grade. It is also admitted that for his acting in higher grade, he was being paid difference of wages for Technical Grade-D and Technical Grade-C. It is also admitted that regarding a dispute raised on behalf of the then union a tripartite settlement was arrived at on 27-11-1990 and it is admitted that in the tripartite settlement it was mentioned that all those persons who had completed 240 days of work in higher grade shall be considered for regularisation in higher grade which will be made effective from the date of their officiation. It is also admitted that the workman concerned had not completed 240 days of work on 27-11-1990, which was treated as cut-off date for considering the regularisation by the management and since the

management was given the discretion of deciding the criteria, there could not have been any illegality or irregularity in the matter.

11. It has been contended on behalf of the management that the workman concerned did not even continue to officiate in the higher grade after 28-02-1991 and he did not get the difference of wages on this account, which becomes practically admitted by the workman himself who claimed that he did not get difference of wages for that period for which he filed a representation, but such representation is not available on record. Therefore, it has been submitted on behalf of the management that the workman was neither entitled to be regularised as per the terms of the settlement, Ext. W-2, nor he was selected on this account for his regularisation. It is, therefore, submitted that the workman has no basis to make a claim regarding which the present dispute has been raised. It has also been submitted that according to Clause-7 of this settlement, Ext. W-2 the matter was finally settled as per the dispute in respect of regularisation of the workman doing higher nature of job and it was as one time dispensation and as a very special case. Therefore, after the management decided a cut-off date on 27-11-1990 and considered the persons eligible for regularisation, the question of considering the case of the workman concerned on his completing 240 days on a subsequent date did not arise.

12. It thus appears that the concession being one time dispensation and a very special case, it runs counter to an idea of the same being prospective one. The contention of the union that such concession shall be available to all employees completing 240 days of work in higher grade for all times to come does not stand scrutiny. The union, therefore, has no analogy to support the claim against the provisions made in the tripartite settlement. So far as the discretion of the management is concerned, it was clearly mentioned in Clause-6 of the settlement, Ext. W-2 that identification of such employees and their placement will be completed within three weeks and it was also made clear in Clause-3 that the manner of placement of those employees who needed to be placed in appropriate grade will be decided by the management. It was also mentioned in Clause-2 of the settlement, Ext. W-2 that the identification of such employees remained purely the prerogative of the management and it was to be done exclusively by the management.

13. In such view of the matter, there does not appear to be any reason to see that there has been any discrimination with the workman concerned or that the action of the management by any means was not in conformity of the settlement arrived at in tripartite form. The claim of the workman regarding his regularisation with effect from the date of his acting in higher grade does not appear to have any basis or foundation and such a claim cannot be entertained.

14. Accordingly, the reference is decided and answered and it is held that the workman in this case is not entitled to any relief what-so-ever.

Dated, Kolkata,

The 19th December, 2002.

B.P. SHARMA, Presiding Officer

नई दिल्ली, 10 जनवरी, 2003

का. आ. 490.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 227/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-01-03 को प्राप्त हुआ था।

[सं. एल-40012/162/99-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 10th January, 2003

S.O. 490.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 227/2001) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of D/o Post and their workman, which was received by the Central Government on 10-01-2003.

[No. L-40012/162/99-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 2nd December, 2002

Present : K. KARTHIKEYAN,

Presiding Officer

INDUSTRIAL DISPUTE NO. 227/2001

(Tamil Nadu State Industrial Tribunal I.D. No. 239/99)

[In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workman Sri C. Chinnakolandai and the management of Postal Services.)

BETWEEN

Sri C. Chinnakolandai : I Party/Workman

AND

1. The Chief Post Master : II Party/Management
General, Tamil Nadu Circle.

2. The Post Master General,
(NR), Chennai.

3. The Director of Postal
Services, Madras Region,
Chennai.

4. The Senior Superintendent
of Post Offices,
Vellore Division, Vellore.

Appearance :

For the Workman : M/s. S. Jothivani &
G.V. Kasthuri, Advocates

For the Management : Mr. R. Kannappan,
Addl. CGSC

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No.L-40012/ 162/99/IR(DU) dated 13.09.1999.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, Chennai, where the same was taken on file as I.D. No. 239/99. When the matter was pending enquiry in that Tribunal, Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu State Industrial Tribunal to this Tribunal for adjudication. On receipt of records from that Tamil Nadu State Industrial Tribunal, this case has been taken on file as I.D. No. 227/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 08-02-2001 with their respective parties and to prosecute this case further. Accordingly, the learned counsel on either side along with their respective parties have appeared and prosecuted this case further.

Upon perusing the Claim Statement, Counter Statement, the documentary evidence let in on either side, the other material papers on record, the written arguments filed by the learned counsel for the II Party/Management after hearing the arguments advanced by the learned counsel for the I Party/Workman and this matter having stood over till this date for consideration, this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows:—

“Whether the action of management in dismissing Sri C. Chinnakolandai, Branch Postmaster, Thirupattur Division is legal and justified? If not, to what relief the workman is entitled?”

2. The averments in the Claim Statement filed by the I Party/Workman Sri C. Chinnakolandai (hereinafter refers to as Petitioner) are briefly as follows:—

The Petitioner Sri C. Chinnakolandai while he was working as Branch Post Master at Athipet Branch Office was issued with charge memo based on the surprise inspection by the Sub-divisional Inspector Vaniyampadi Sub-Division on 25.8.88 alleging that the Petitioner has kept his office cash and stamp balance short by Rs. 604.20 and utilised the same for his personal use and also kept the sale proceeds of M.O. forms short by 0.15 paise and has not credited Rs. 5/- towards sale proceeds of M.O. forms. A domestic enquiry was ordered to enquire into the charges levelled against the Petitioner. As the Petitioner has denied the charges, the Enquiry Officer conducted a domestic enquiry and completed the same and gave his report with the finding that charge no. 1 was not proved stating that a shortage of Rs. 604.20 in cash and stamp balance and 0.15 paise in the sale proceeds of M.O. forms noticed on 25-8-88 was not established. However, article of charge No. 2 that the Petitioner had not credited Rs. 5/- towards sale proceeds of M.O. form sold and accumulated to Rs. 5/- on 6-8-88 till the date of surprise visit of Sub-Divisional Inspector, Vaniyampadi Sub-Division on 25.8.88. The ad-hoc Disciplinary Authority who did not agree with the findings of the Enquiry Officer in respect of Article of Charge No. 1 concluded that the findings of the Enquiry Officer in his report that the charge No. 1 was based on assumption and presumption and not supported by any documentary or oral evidence as incorrect, since the Enquiry Officer had not given due credit to the documentary evidence produced during the enquiry. The Disciplinary Authority after considering entire materials on merit had imposed the punishment of dismissal from service against the Petitioner. Without considering properly the submissions made by the Petitioner as explanation to the report of the Enquiry Officer, the Disciplinary Authority has passed the punishment of dismissal from service on the Petitioner by his memo dated 8-10-90. The Petitioner preferred an appeal on 19-11-90 to the Appellate Authority, who by his order dated 17-1-91 rejected the appeal, as there is no ground for interference. Then the Petitioner preferred a review petition before the Post Master General, Northern Region, Madras on 11-3-91 and the same was rejected and the orders passed by the Disciplinary Authority and Appellate Authority were confirmed by an order dated 8-10-93. The Petitioner had kept the cash in the house and during the time of inspection had requested time for production of the same, but the inspecting authority refused to give him time for production of the same and the Enquiry Officer has held that the charges against the Petitioner as misappropriation of money Rs. 604.20 not sustainable and held that the charge of non-credit of Rs. 5/- of sale proceeds

of M.O. forms as proved. During the enquiry, it has not been proved by the witnesses only the Disciplinary Authority has based reliance on the materials collected during fact finding enquiry and imposed the punishment of dismissal from service. The Disciplinary Authority ought to have given an opportunity to the Petitioner to submit his explanation on the disagreement with the Enquiry Officer's Note and the failure will amount to violation of principles of natural justice and Article 311 (2) of Constitution of India. The imposition of punishment of dismissal from service by the Disciplinary Authority is excessive and as such, the impugned order of dismissal from service is liable to be set aside. Since the conciliation proceedings were ended in failure, and on submission of failure report by the conciliation officer, the Ministry has referred this dispute to this Tribunal for adjudication. Hence, it is prayed that this Hon'ble Tribunal may be pleased to pass an award directing the Respondent Postal Department to reinstate the Petitioner in service with all attendant service and monetary benefits.

3. The averments in the Counter Statement filed by the II Party/Management Postal Department (hereinafter refers to as Respondent) are briefly as follows:—

The Sub-Postmaster Jamunamaruthur Post Office in his letter dated 17-8-88, 18-8-88, 22-8-88 and 23-8-88 had reported to the Superintendent of Post Offices, Tirupathur Division and Sub-Divisional Inspector Vaniyampadi Sub-Division that the Petitioner Branch Post Master Athipet branch office was keeping excess cash balance of Rs. 819-65 as against authorised cash balance of Rs. 250/-. It was further complained that the Branch Post Master Athipet BO was keeping 8 M.Os payable to the students St. Joseph High School, Athipet without effecting payment to the payee concerned and was furnishing fictitious remarks for non-payment of the said M.Os in his daily-accounts as no cash though he was having adequate cash balances. Besides this complaint, the said Sub-Postmaster had instructed the Petitioner through Branch Office slips dated 20-8-88, 22-8-88, 23-8-88, 24-8-88 and 25-8-88 to pay the Money Orders in deposit to the payees concerned or to return the excess cash with him to the account office. On the basis of the report of the said Sub-Postmaster, the Superintendent of Post Offices, Tirupattur Division directed the Sub-Divisional Inspector Vaniyampadi to go surprise visit to the said BO and verify the accounts. During the surprise visit of the Athipet BO on 25-8-88, the Petitioner had produced cash and stamp balances for Rs. 271.45 only as against Rs. 875.65 resulting in shortage of Rs. 604.20. He produced only 20 M.O. forms with the cash of Rs. 7.25 as against Rs. 7.40 resulting in shortage of Rs. 0.15 paise. It was also found that the Petitioner has failed to credit a sum of Rs. 5/- under the head sale of M.O. forms on

6.8.88 and thereafter though the sale proceeds reached Rs.5/10 on 6.8.88, the Petitioner in his statement dated 25.8.88 given before the Sub-Divisional Inspector Vaniyampadi had admitted that there was a shortage of Rs.604.20 during the verification by the said Sub-Divisional Inspector on 25.8.88 and that he utilised the amount for his private use and requested time upto 13.00 hours on 26.8.88 to make good the shortage. As the shortage was not made good on the same day, the amount was charged under the unclassified payment. The Petitioner credited the sum of Rs.604.20 and the shortage in M.O. form stock of Rs.0.15 paise into Govt. accounts only on 26.8.88, though the shortage was noticed on 25.8.88. The Petitioner in his statement dated 26.8.88 given before the said Sub-Divisional Inspector have stated that he utilised the office cash for his personal use. Thereafter the Petitioner was proceeded against under Rule 8 of ED Agents (C & S) Rules, 1964 by the Superintendent of Post Offices, Tirupattur. On completion of enquiry, the Enquiry Officer submitted his report dated 12.6.90 holding that the article of charge No. 1 as not proved but however, article of charge No. 2 that the Petitioner did not credit sum of Rs.5/- under the head sale of M.O. forms on 6.8.88 was held as proved. It was not accepted by the Disciplinary Authority since the report of the Enquiry Officer was based on assumption and presumption and not supported by any documentary or oral evidence. The Enquiry Officer had also not given due credit to the documentary evidences produced during the enquiry. The ad-hoc Disciplinary Authority had imposed punishment of dismissal from service on the Petitioner after considering the case on merit in detail which he elaborately discussed in the proceedings. Thereafter the appeal and revision preferred by the Petitioner were rightly rejected. Though the Branch Post Master is at liberty to keep cash and valuable of his branch office wherever he likes for the purpose of safe custody, during the off hours of the branch office as per Rule 11 (2) of rules for Branch Offices it is to be pointed out that the Petitioner while working as Branch Post Master had failed to produce cash and stamps for verification during the working hours of the branch office. The Petitioner who was not able to make good the shortage before the close of the working hours of the B.O. on 25.8.88 has admitted in his statement dated 25.8.88 that the said shortage stating that the same was utilised for his private use and requested permission to make good the same before 13.00 hours on 26.8.88 and credited the said amount under classified receipts on 26.8.88 as promised. Even in the appeal dated 19.11.90, the Petitioner admitted the said shortage of Rs.604.20 found by the Sub Divisional Inspector Vaniyampadi on 25.8.88 which was made good by him on the next day. There is no need for the Disciplinary Authority to communicate the reasons for such disagreement with the report of the Enquiry Officer to the charged E.D. Agent

along with the report of the enquiry, as per the rulings existed then. He had already availed all the remedies viz. appeal and petitions. Hence, the plea of the Petitioner of violation of principles of natural justice and Article 311 (2) of Constitution of India does not arise. The Petitioner was given adequate opportunity to defend his case during the departmental enquiry itself. He was allowed to inspect all the documents specified in charge sheet and additional documents called for by him were also made available to him. The admitted shortage of cash and stamps on the date of inspection was due to the illegal act of the Petitioner by using the Govt. money for his personal use which resulted in delay in payment/non-payment of Money Orders to the students of St. Joseph High School, Athipet. By this action, it was proved that he is unworthy to be retained in public service in a position of Branch Post Master where trust is most required. Hence, the action of the department in dismissing the Petitioner from his service is legal and justified under the existing rules of the department. The Petitioner is devoid of merits and from the facts and circumstances, it is clear that the Petitioner has not come forward with clear hands and therefore, the petition has to be dismissed in limine. Hence, this Hon'ble Tribunal may be pleased to dismiss the case as devoid of any merits.

4. When the matter was taken up for enquiry finally, no one has been examined as a witness on either side. On the side of the I Party/Workman 9 documents have been marked by consent as Ex. W1 to W9. On the side of the II Party/Management 13 documents were marked by consent as Ex. M1 and M13. Learned counsel for the I Party/Workman had advanced her oral arguments and the learned counsel for the II Party/Management had filed his written arguments.

5. The Point for my consideration is -

"Whether the action of management in dismissing Sri C. Chinnakolandai, Branch Postmaster, Thirupattur Division is legal and justified? If not, to what relief the workman is entitled?"

Point :—

The Petitioner/Workman Sri C. Chinnakolandai has raised this industrial dispute against the Respondent/Management of Postal Department challenging their action in dismissing him from service as Branch Post Master, Thirupattur Division as illegal and unjustified. The Petitioner was working as E.D. Branch Post Master at Athipattu branch attached to Jamuna Maruthayoor SO in Thirupattur Division w.e.f. 29.11.1983. While he was working so as Branch Post Master he was issued with a charge memo dated 3.11.1988 alleging that on the surprise inspection by the Sub Divisional Inspector Vaniyampadi Sub-Division on 25.8.88 at 10.45 hrs. there was a shortage

of office cash to the tune of Rs. 604.20 and the same was noticed by the Inspecting Authority verified the cash and stamps of the Branch Office and the Petitioner chargesheeted employee had given the statement before the Sub-Divisional Inspector Vaniyampadi Sub Division had stated that a sum of Rs. 271.45 in the office cash and the stamps could be produced for verification and as against the actual balance available as closing balance in the records of Rs. 875.65 a shortage of Rs. 604.20 was found and Sri C. Chinnakolandai the Petitioner had admitted as having utilised the amount for his personal use and however, he promised to make good the shortage of Rs. 604.20 before 1.00 p.m. on 26.8.88 and since he could not make good the shortage, he was charged to UCP on 25.8.88 at the branch office and that the Inspecting Authority has also found shortage of 0.15 paise in the stock of M.O. forms. Though as per the stock book the sale proceeds of M.O. forms were shown as 5.10 on 6.8.88, the Petitioner did not credit Rs. 5/- under the head sale of M.O. forms on 6.8.88 and thereafter on 25.8.88 given a statement before Sub Divisional Inspector Vaniyampadi Sub Division that at the time of verification by the Inspecting Authority 26 M.O. forms and a sum of Rs. 7.25 only were available as against Rs. 7.40 resulting in a shortage of Rs. 0.15 p. and that the Petitioner had violated the provisions of note below Rule 11 on rules for branch offices and thereby failed to maintain absolute integrity and devotion to duty as enjoined in Rule 17 of P & T ED Agents (Conduct & Service) Rules, 1964. Though the Petitioner had accepted the charges at the time of surprise inspection, had denied the same during the domestic enquiry. The Enquiry Officer on completion of the enquiry into the articles of charges had held that the articles of charge No. 1 was not proved and 0.15 p. in the sale proceeds of M.O. form noticed on 25.8.88 was not established and thus, charge No. 2 was not proved. The ad-hoc Disciplinary Authority did not agree with the findings of the Enquiry Officer in respect of Article of Charge No. 1 stating that the report of the Enquiry Officer was based on assumption/presumption and not supported by any documentary or oral evidence. The Enquiry Officer has given a finding that the belated credit of Rs. 5/- as a sale proceeds of M.O. form from 6.8.88 to 25.8.88 as proved. The Petitioner has submitted his explanation for the report of the Enquiry Officer. After considering the Enquiry Officer's report and the submission of the Petitioner, the Disciplinary Authority has imposed the punishment of dismissal from service against the Petitioner. Ex. M5 is the xerox copy of the order dated 8.10.1990 passed by the Disciplinary Authority dismissing the Petitioner from service with immediate effect. Earlier the Petitioner was placed under put off duty by an order dated 27.8.1988. The xerox copy of the same is EX. W1. The xerox copy of the Enquiry Officer's

report dated 12.6.90 is Ex. W4. Against the order of dismissal passed by the Disciplinary Authority and the original of Ex. W5, the Petitioner has submitted an appeal dated 19.11.90 to the Appellate Authority, the Post Master General Madras Region, Madras. The xerox copy of that appeal is Ex. W6. The Appellate Authority by his order dated 17.1.91 rejected the appeal of the Petitioner. The xerox copy of the same is Ex. W7. Then the Petitioner had preferred a revision dated 11.3.91 to the Chief Post Master General Madras. The xerox copy of the same is Ex. W8. The Revisional Authority by his order dated 8.10.93 has rejected the revision petition of the Petitioner. The xerox copy of that order is Ex. W9.

6. It is the contention of the Petitioner that as per the instructions under Note below Rule 11 (2) of Book of BO Rules, instruction has been given for making own arrangement by the Branch Post Master for the safe custody of cash and valuables on their own responsibility. In the same note, it is stated that such cash and valuable kept in the safe custody of the Branch Post Master by making his own arrangements must be made available when required and when called for they can be produced for inspection within the time required for producing the same. It is alleged that the Petitioner in the instant case had kept the cash in the house and during the time of inspection, he had requested time for production but the inspecting authority had refused to give him time for production of the same. That was why the Enquiry Officer has rightly held that the charges against the Petitioner about the misappropriation of the said money is not sustainable. It is further contended on the side of the Petitioner that during the enquiry while examination of the witnesses, it was not proved by the management and only the Disciplinary Authority has based his reliance on the materials collected during the fact finding enquiry and imposed the punishment of dismissal of service on the Petitioner. While doing so, the Disciplinary Authority ought to have given an opportunity to the Petitioner to submit his explanation on the disagreement with the Enquiry Officer's note and the failure will amount to violation of principles of natural justice and moreover, an analysis of the Enquiry Officer's report shows that the imposition of the punishment of dismissal from service by the Disciplinary Authority is excessive and as such the impugned order of dismissal from service is liable to be set aside.

7. But it is the contention of the Respondent/ Management that the Petitioner himself has given a statement dated 25.8.88 admitting that the Sub Divisional Inspector Vaniyampadi who inspected had found out the shortage of Rs. 604.20 during the verification at the time of the inspection on 25.8.88 and that the Petitioner had utilised the sum for his private use and requested time of 13 hours on 26.8.88 to make good the shortage. It is further

contended that the shortage was not make good on the same. So, the amount was charged under unclassified payment and only on 26.8.88, the Petitioner has credited that amount and has given a statement before Sub Divisional Inspector that he utilised the office cash for his personal use and only thereafter the Petitioner was proceeded against under Rule 8 of ED Agents (C&S) Rules, 1964 by the Superintendent of Post Offices, Thirupattur by issuing a charge memo dated 3.11.88. It is further contended on the side of the Respondent/Management that the Enquiry Officer had not given due credit to the documentary evidence produced during the enquiry and hence the Disciplinary Authority after considering the merit of the case in detail and elaborately discussed the same in his proceedings and imposed the punishment of dismissal from service against the Petitioner and the same has been confirmed by the Appellate Authority as well as the Revisional Authority by rejecting the appeal as well as the revision preferred to them respectively by the Petitioner. Hence, it can be held that the action of the management of the Postal Department in dismissing the Petitioner the Branch Post Master Thirupattur Division is legal and justified. From the materials available in this case, it is seen that though the Petitioner is at liberty to keep cash and valuables of his branch office wherever he likes for the purpose of safe custody during the office hours, as per the departmental rules, he is liable to produce the same as and when required by the inspecting authority for verification during the working hours. There is sufficient evidence available in this case to show that the Petitioner has failed to produce the amount found as shortage by the Inspecting Authority at the time of inspection and the Petitioner himself has given a statement to that effect and has also he failed to produce the same within reasonable time but has remitted the cash later and has given a statement to that effect accepting his guilt of misappropriation of the same amount found to be shortage in the account of the office and had remitted the same subsequently. These things cannot be denied when they are borne by records. It is not the contention of the Petitioner that one such incident has not taken place and he has not given statements to the Inspecting Authority as spoken to by the Respondent/Management and relied upon by the management as statements given by the Petitioner himself. Those statements have been filed here as Xerox copies and the same had been marked as Ex. M9 to M12. The other relevant documents pertaining to this inspection as Branch Post Office daily account sheet, Inventory sheet have been marked as Xerox copies as Ex.M5 to M8. It cannot be said that these documents have been prepared by the department itself to take a vindictive action against the concerned workman, the Petitioner herein. From the facts

and circumstances available in this case, as it is evidenced from the records available in this case, it is seen that the Petitioner while working as Branch Post Master Athipet branch office has committed a misconduct as alleged in the charge memo and there are sufficient evidence available to come to a conclusion that the charges have been established and the Enquiry Officer only has erred in giving a wrong finding in his report that the major charges have not been proved. It is evidently clear from the materials available in this case that the Petitioner as Branch Post Master of Athipet branch office had utilised the public money for his personal use and thereby he failed to maintain the absolute integrity and devotion to duty as enjoined in Rule 17 of P&T ED Agents (Conduct & Service) Rules, 1964 and hence, the order passed by the Disciplinary Authority for dismissing the Petitioner from service is legal and justified and it is according to rules and principles of natural justice. Hence, the action of the Respondent/Management Postal Department taken against the Petitioner in dismissing him from service cannot said to be illegal and unjustified. So the concerned workman is not entitled for any relief. Thus, the point is answered accordingly.

8. In the result, an Award is passed holding that the concerned workman Sri C.Chinnakolandai is not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 2nd December, 2002.)

K. KARTHIKEYANA, Presiding Officer.

Witnesses Examined:-

On either side : None

Documents Exhibited :—

For the I Party/Workman :—

Ex.No.	Date	Description
W1	27.08.88	Xerox copy of the order placing the Petitioner under Put off duty.
W2	03.11.88	Xerox copy of the charge memo issued to Petitioner.
W3	Nil	Xerox copy of the defence brief submitted to Enquiry Officer.
W4	12.06.90	Xerox copy of the Enquiry Officer's report.
W5	08.10.90	Xerox copy of the order of dismissal from service against the Petitioner.
W6	19.11.90	Xerox copy of the appeal preferred by Petitioner.

Ex.No.	Date	Description
W7	17.01.91	Xerox copy of the order of Appellate Authority
W8	11.03.91	Xerox copy of the representation submitted by Petitioner to Chief Post Master General.
W9	08.10.93	Xerox copy of the order passed by the Post Master General, N. R. Chennai against the revision petition filed by the Petitioner.

For the II Party/Management:-

Ex. No.	Date	Description
M1	17.08.88	Xerox copy of the complaint preferred by the Sub-Post Master against the Petitioner
M2	18.08.88	Xerox copy of the complaint preferred by the Sub-Post Master against the Petitioner
M3	22.08.88	Xerox copy of the complaint preferred by the Sub-Post Master against the Petitioner
M4	23.08.88	Xerox copy of the complaint preferred by the Sub-Post Master against the Petitioner
M5	23.08.88	Xerox copy of the daily accounts sheet of Branch Post Office.
M6	25.08.88	Xerox copy of the daily accounts sheet of Branch Post Office.
M7	25.08.88	Xerox copy of the inventory sheet
M8	26.08.88	Xerox copy of the daily accounts sheet of Branch Post Office.
M9	25.08.88	Xerox copy of the statement given by Petitioner Admitting shortage of balance.
M10	25.08.88	Xerox copy of the statement given by Petitioner Admitting shortage of balance.
M11	26.08.88	Xerox copy of the statement given by Petitioner Admitting shortage of balance.
M12	26.08.88	Xerox copy of the statement given by Petitioner Admitting shortage of balance.
M13	Nil	Xerox copy of the letter from Petitioner to Superintendent of Post Offices, Tirupattur.

नई दिल्ली, 13 जनवरी, 2003

का. आ. 491.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल एम्प्लुनिशन डिपो के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण नागपुर के पंचाट (संदर्भ संख्या सीजीआईटी 10/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-01-2003 को प्राप्त हुआ था।

[सं. एल-14011/10/92-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 13th January, 2003

S.O. 491.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT : 10/2000) of the Central Government Industrial Tribunal/Labour Court, Nagpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Ammunition Depot and their workman, which was received by the Central Government on 13-01-2003.

[No. L-14011/10/92-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NAGPUR

PRESENT: SHRI B.G. SAXENA, PRESIDING OFFICER

REFERENCE No. CGIT : 10/2000

CENTRAL AMMUNITION DEPOT

AND

THEIR 478 CASUAL LABOURERS

AWARD

The Central Government, Ministry of Labour, New Delhi by exercising the powers conferred by Clause (d) of Sub Section (1) and Sub-section 2(A) of Section 10 of the Industrial Dispute Act, 1947 has referred this dispute for adjudication vide order No. L-14011/10/92-IR(DU) date 15-12-93 on following schedule.

SCHEDULE

"Whether the action of the management of Central Ammunition Depot, Govt. of India, Ministry of Defence, Pulgaon Camp, Pulgaon, Distt. Wardha in terminating the services of 478 casual labourers w.e.f. 31-1-92 and not considering them for re-employment is legal and justified? If not, what relief the workmen concerned are entitled to?"

This reference was sent by Ministry of Labour, New Delhi to CGIT Court No.1, Mumbai vide order No. L-14011/10/92-IR(DU) dated 15-12-93 for adjudication. This file was received by transfer from CGIT Court No.1, Mumbai in January, 2000 and notices were issued to both the parties for 4-2-2000.

The Statement of Claim has been submitted in this reference by Shri R.K. Patel, President, Casual Kamgar Labour Sangathan of Central Ammunition Depot, Pulgaon, Distt. Wardha, on 20-1-94 on behalf of 478 Casual Labourers of Central Ammunition Depot, Pulgaon.

It is mentioned in Statement of Claim that during September/October, 1990 a demand was sent to District Employment Exchange, Wardha for sponsoring 335 candidates for appointment as Casual Labourers against 335 vacancies. The District Employment Exchange sponsored about 1057 candidates. They were interviewed by the Board of Officers of Central Ammunition Depot, Pulgaon and after interview 478 Casual Labourers were employed w.e.f. 10-10-90. Though the job of Casual Labourers was mentioned as Grass cutting, Bushes and Tree cutting but they had also performed the duties of loading and unloading of Ammunitions and allied duties which were generally done by regular employees. These labourers also worked in officers Mess, cleaning of Golf Court Ground. They were also deputed to work on the Officers Bungalows. One of these Casual Labourers namely Anil S/o Udebhan Bahadure received injury while loading and unloading of Ammunitions and he died on 23-11-90. The workers then took up the matter with the management to take steps for the safety of the labourers.

The aforesaid 478 labourers were terminated by the management of CAD, Pulgaon w.e.f. 31-1-92 without providing any opportunity of hearing to them. Immediately after termination of their services the management of CAD called for a list of fresh candidates and interviewed them on 5-2-92. They employed 335 Casual Labourers of this batch from 1-3-92 and did not give preference in employment to the 478 labourers who had already worked from 10-10-90 to 31-1-92. The aforesaid labourers therefore took up the matter with Assistant Labour Commissioner, Nagpur. One MLA, Smt. Saroj Tai Kashikar also contracted the officers of CAD and Assistant Labour Commissioner, Nagpur but her efforts failed to solve the dispute. The matter was referred by the Assistant Labour Commissioner to Ministry of Labour with failure of conciliation proceedings report.

The above claimant have mentioned in the Statement of Claim that the 478 labourers were appointed on 10-10-90 and worked upto 31-1-92. In spite of vacancies and availability of work they were not re-employed and therefore they have been deprived of the opportunity of continuity of their service. They have claimed reinstatement and backwages. They have also claimed that they should be re-employed in service as labourers.

The management submitted their Written statement and have stated that these 478 workmen were employed as Casual Mazdoor on 10-10-90. When there was no work, all the 478 Casual Mazdoor were terminated w.e.f. 31-1-92 as their services were not required by Central Ammunition Depot. The work provided to them was of casual/seasonal

nature. They had not worked for 240 days continuously. Break was also given in their service as work load was not sufficient to provide work regularly and continuously to these labourers. They are not entitled to any relief claimed by them.

It is also mentioned in Additional Written Statement submitted on 5-8-97 that the matter was also heard by Central Administrative Tribunal in original application No. 199/93. On 10-11-93 the matter was called out for hearing but nobody appeared from the side of the workmen, hence the proceedings were dismissed. The restoration application was moved but the order on application for restoration does not say that order date 10-11-93 would stand set aside. The proceedings of this reference therefore should be closed.

It is also mentioned in the Written Statement that the Central Ammunition Depot, Pulgaon is not an Industry. It is also mentioned that these labourers were employed for grass cutting to save the Ammunition Depot from damage caused by fire. In May, 1989 fire had broken out at Central Ammunition Depot, Pulgaon and this fire had extended to the grass and bushes area of the compound and the ammunition was destroyed by fire. In this additional Written Statement also the management has stated that workmen are not entitled to any relief claimed by them.

Both the parties have submitted the oral and the documentary evidence. The counsel for workmen Shri V.S. Kukday has also submitted the list of 478 labourers who worked from 12-10-90 to 31-1-92. He has also mentioned the number of working days for which they worked. In the remarks column he has also mentioned that some of the workmen have joined duty. He has also shown as word A for absent workman. Anil Udebhan Bahadure at Sr. No. 16 is shown "expired." The advocate of the management has also submitted the list of these 478 Casual Mazdoor who worked from 12-10-90 to 31-1-92. In column No. 25 he has mentioned the number of working days for which these 478 workmen had worked. This list submitted by the advocate of management Shri A.B. Chowdhary bears the signature of Lieutenant Colonel A.K. Yadav who is also Administrative Officer.

Both the parties have also submitted their Written Arguments through their advocates. Shri V.S. Kukday, advocate conducted the case for the workmen and has submitted Written Arguments. Shri A.B. Chowdhary, advocate conducted the case for the management of Central Ammunition Depot, Pulgaon and has submitted Written Arguments for the management.

I have considered the entire oral and documentary evidence on record and the arguments submitted by the advocates of the parties. The Central Ammunition Depot, Pulgaon is storing the Ammunition which is manufactured in the Ordnance Factories. The Ordnance Factories are the industries. The arms and ammunitions stored in the

Ammunition Depot is also sold. It is also transported to Ordnance Depots. Thus the Central Ammunition Depots are also the part of the industries which manufacture the arms and the ammunitions. The arms and the ammunitions which are purchased from other countries are also stored at Central Ammunition Depots. These arms are also transported for sell to other places which are the part of the Defence Establishments. In view of the above facts the Central Ammunition Depot, Pulgaon also falls in the definition of industry on the principles laid down by the Hon'ble Supreme Court in judgment reported in 1978, LAB.L.C 467 Supreme Court, page-467, Bangalore Water Supply & Sewerage Board Vs. A. Rajappa. Thus Central Ammunition Depot, Pulgaon is also an "Industry."

I have also perused the order dated 10-11-93. The six lines order of Central Administrative Tribunal, Bombay Bench in original application No. 199/93 does not show that the parties had produced any evidence before Central Administrative Tribunal. The above order also does not show that the case was decided on merit by the Central Administrative Tribunal. The application moved before this Administrative Tribunal was dismissed as none was present to press the application. In view of the above facts the present reference is not barred by the principle of res judicata as the original application was not decided on merit. The matter in dispute before this Tribunal is on the point whether the termination of 478 Casual Labourers is justified or not? Whether these labourers are entitled for re-employment or not? The order of the CAT dated 10-11-93 does not show that the matter in dispute has been finally decided. Thus the present reference is not barred by the principle of res judicata.

Both the parties in this Court have produced oral and documentary evidence on the dispute referred for adjudication.

Subhash S/o Ratanji Mendhe stated that the management had obtained sanctioned from the authority concerned for continuing the services of Labourers from April, 1991 to 31-3-92. The 478 workmen were employed from October, 1990 and had been working upto 31-1-92. They were also issued Gate Passes for entry in the Depot Premises. They had worked for more than 240 days. In cross-examination by the counsel for the management this witness stated that Central Ammunition Depot is in the area of 7100 acre land. In May, 1989 the fire had broken out in the Depot. He denied the suggestion that these workmen were working for only 4 months in the year. His statement shows that in the year 1992 and 1993 also the labourers were employed. He denied the suggestion that the workmen were asked for discontinuing the work after cutting the grass from the depot compound. He also submitted certificate dated 22-8-93 issued to Dilip Khende. He stated that this certificate is correct. The counsel for the workmen has also submitted this certificate issued to Raj Kumar Ghodeswar dated 23-10-01 showing that this workman

had worked all the 12 months during the year 1991. He had worked for 3 months in the year 1990.

Another witness Ramchandra Wankhede has also stated that he knows the employees who had joined service of Central Ammunition Depot on 10-10-90 and worked upto 31-1-92. He was working as a labour under Central Ammunition Depot, Pulgaon and was a permanent employee of the Depot. He had seen the workmen who have submitted Claim. They had been doing the work of loading and unloading of arms and ammunitions. Some of them had also worked as Waiters in Officers Mess and Officers Club. They also worked in Golf Court and at the residence of the Officers. They were also doing the work of cutting grass by rotation on the directions of Labour Officers. The work was available for all the 12 months in a year. In February, 1992, 900 candidates were requisitioned from Employment Exchange and 400 of them joined duties from 1-3-92 after the termination of these workmen (claimant) on 31-1-92. In cross-examination by the counsel for the management he denied the suggestion that these workmen were not doing the work of loading and unloading of arms and ammunitions.

The statement of the witnesses examined from the side of the workmen therefore shows that the work was available for the whole year. The list of 478 Casual Mazdoor, from 12-10-92 to 31-3-92 submitted by the management also shows that some of the workmen had worked upto 199 days or more. Vinayak Badriram, Token No. 4024 had worked for 200 days. He worked for several months in the year 1991 from January, 1991 to December, 1991. In the same way the workman Token No. 4083, Vilash S. Nare worked for 197 days. Raja Shankar Kusare, Token No. 4464 worked for 201 days. Thus the statement submitted by the management also shows that these 478 workmen had been working throughout the year. Their work was not limited to the grass cutting work for a period of 2 or 3 months in a year as mentioned by the management in the Written Statement. The Written Argument submitted by the counsel, for the management that they were engaged only for 1 or 2 months, is therefore incorrect.

The management witness Bhayya Chintaman Chandekar has submitted affidavit. He was cross-examined by the advocate of the workmen Shri V.S. Kukday on 23-3-01. He has stated in cross examination that these 478 workmen were working in different Sub-Depots of Central Ammunition Depot. Each Sub Depot has a separate Labour Supervisor. He does not know whether Anil Bahadure died due to receiving injury in the loading and unloading work of arms and ammunitions. Anil Udebhan Bahadure is shown at Sr. No. 15, Token No. 4016. His attendance is shown nil.

Shri A.K. Yadav, Lieutenant Colonel has admitted in his cross examination that Anil Udebhan Bahadure had worked for 12 days at Central Ammunition Depot, Pulgaon and had died. His 12 days wages were paid to his wife after

his death. He also admitted that his 12 days attendance should have been marked by the management in the Attendance Sheet. He does not know how his attendance is shown as nil. The counsel for the workmen Shri V.S. Kukday has argued that the attendance of these 478 workmen has not been correctly recorded by the management. He has also suggested to the witness A.K. Yadav that the management has knowingly shown less working days in their record. Shri A.K. Yadav has represented that the working days have been shown in the list on the basis of Pay Roll. He can not say whether these workmen had worked on Sundays and holidays also. He has admitted in cross examination that the grass cutting work is taken in the month of March and April. For the remaining year the other work is taken from the labourers. These 478 workmen were appointed on 10-10-90 on the basis of requisition sent to Employment Exchange. He does not know whether another batch of labourers was appointed on 30-4-92 or not after the termination of these 478 workmen. He stated that the certificate date 24-12-93 has been issued by his department and it is correct. He does not know whether Anil Bahadure was employed for grass cutting or not. He does not know how he died. The list of the 478 workmen submitted by the management bears his signatures. The statement of Shri Ajay Kumar Yadav, Lieutenant Colonel who is also holding the post of Administrative Officer of Central Ammunition Depot therefore clearly shows that the list of 478 workmen submitted by the management is based on the Attendance Record maintained by the management of Central Ammunition Depot. From this document it is therefore clear that these 478 labourers had been working throughout the year. They had not worked for 2 or 3 months for cutting the grass as mentioned by the management in their Written Statement. The work was available for the whole year and fresh appointments were also made after removing these 478 labourers. There is no reason as to why they were not allowed to continue work after 31-1-92 when the work was available at Central Ammunition Depot, Pulgaon.

The statement of management witness Suresh H. Naidu also shows that Anil Bahadure was employed for grass cutting and he had died shortly after his appointment. It is suggested by the counsel for the workmen that Anil Bahadure died due to receiving injury in the loading and unloading work of ammunitions though he was shown to have been employed for grass cutting work.

Thus from the witnesses of management also and the list of 478 workmen submitted by A.K. Yadav, Lieutenant Colonel, it is clear that these 478 labourers had been working from 12-10-90 to 31-01-92. In the year 1991 they were shown for working during January, February and April to December. In the month of March, 1991 break was shown in their service. The statement Shri A.K. Yadav shown that the grass cutting work is taken from the labourers in the month of March and April. If these

workmen were employed only for cutting the grass how the management has shown their break in service in the month of March, 1991.

The counsel for the workmen has argued that every year the Central Ammunition Depot is employing some labourers. They also publish the vacancies in the newspaper but these 478 workmen who have experience of doing work are being deprived of getting employment. The work is still available at Central Ammunition Depot and on the basis of experience these workmen should be provided work of labourers in place of employing new and fresh labourers.

The evidence on record therefore shows that these 478 workmen had worked from 12-10-90 to 31-10-92. Some of them have also been allowed to join duty. The counsel for the workmen has mentioned in his list of 478 workmen that who have joined duty against the names of these workmen. For example Token No. 4010, Sukhdeo Shankar Rao Kholhe, Token No. 4065 Ravindra Shrawanji Uike, Haribabu D. Alode, Token No. 4086 and Token 4103, Wasudeo D. Sorte have joined duty. In the same way he has shown by word 'Joined duty' against the name of the some other workmen of the list. The remaining workmen who are still employed are therefore entitled to get re-employment on the post of General Mazdoor in the vacancies that are available now and the vacancies that arise in future.

In the Ruling AIR 2000 Supreme Court, Page 3287, Hindustan Machine Tools and others, Appellant versus N. Rangareddy and others, it is held by the Hon'ble Supreme Court that the Casual Labourers who have experience of work should be absorbed as regular employees.

As the work is still available at Central Ammunition Depot and these workmen can be provided work, the action of management in not considering them for re-employment is not legal or justified. These workmen who are still unemployed are therefore entitled for re-employment in the existing vacancies of labourers and the vacancies that arise in future, relaxing the age limit of their employment.

The list of 478 workmen (labourers) submitted by the advocate of the workmen Shri V.S. Kukday dt. 03-10-01 shows that 26 labourers have joined duty. He has mentioned word 'joined duty' in the remarks column against their names. Two workmen have died and 55 workmen are shown absent by word 'A'.

ORDER

The action of the management of Central Ammunition Depot, Govt. of India, Ministry of Defence, Pulgaon Camp, Pulgaon, Distt. Wardha in discontinuing the services of 478 Casual Labourers w.e.f. 31-01-92 was not legal and justified as other workmen were employed in their place and they were deprived of continuing in service. The action of the management in not re-employing them and making

fresh appointment of labourers in their place also can not be considered legal or justified.

The management is therefore directed to re-employ the labourers who are still unemployed in the existing vacancies of General Mazdoor and the vacancies that arise in future, relaxing their age limits for re-employment.

The reference is answered accordingly.

Date: 12-12-2002

B.G. SAXENA, Presiding Officer

नई दिल्ली, 13 जनवरी, 2003

का. आ. 492.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरदर्शन केन्द्र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 275/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-01-03 को प्राप्त हुआ था।

[सं. एल-42011/53/99-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 13th January, 2003

S.O. 492.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 275/2001) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Doordarshan Kendra and their workman, which was received by the Central Government on 13-01-2003.

[No. L-42011/53/99-IR(DU)]

KULDIPRAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 13th December, 2002

PRESENT:

K. KARTHIKEYAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 275/2001

(Tamil Nadu State Industrial Tribunal I. D. No. 287/99)

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workmen and Management of the Director, Broadcasting Corporation of India].

BETWEEN

The General Secretary, : I Party/Claimant
Bharat Doordharshan
Employees Union, Chennai

AND

I. The Director, : II Party/Management

Broadcasting Corporation
of India,

Prasar Bharati, Doordarshan
Kendra, Chennai.

APPEARANCE:

For the Claimant : M/s. P.K. Gopal Raj &
P.K. Mohan Vel, Advocates

For the Management : Mr. S. Muthusamy,
Addl. CGSC

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No. L-42011/53/99/IR(DU) dated 27-10-1999.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, Chennai, where the same was taken on file as I.D. No. 287/99. When the matter was pending enquiry in that Tribunal, Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu State Industrial Tribunal to this Tribunal for adjudication. On receipt of records from that Tamil Nadu State Industrial Tribunal, this case has been taken on file as I. D. No. 275/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 12-02-2001 with their respective parties and to prosecute this case further. Accordingly, the learned counsel on either side along with their respective parties have appeared and prosecuted this case further. Both the Claim Statement and Counter Statement have been filed earlier before the Tamil Nadu State Industrial Tribunal itself, when the matter was pending dispute for adjudication.

Upon perusing the Claim Statement, Counter Statement, the documentary evidence let in on either side, the other material papers on record, after hearing the arguments advanced by the learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

“Whether the demand of the Bharat Doordarshan Employees Union for increase in period of employment from 10 days to 25 days per month to the casual General Assistants is legal and justified? If not, to what relief the concerned workmen are entitled?”

2. The averments in the Claim Statement filed by the I Party/Claimant the General Secretary, Bharat Doordarshan Employees Union (hereinafter refers to as Petitioner) are briefly as follows :—

The Petitioner Union raised this industrial dispute for increasing the period of employment of their members who are now designated and working as casual General Assistants from the present ten days per month to 25 days per month. As there was no settlement before the conciliation officer, the Cental Govt. has been pleased to refer this dispute for adjudication by this Hon'ble Tribunal. The eight workman covered by this industrial dispute are Mrs. Lakshmi Swaminathan, Mrs. K. Sathyabama, H. Robinson, Mrs. S. Sudha, Mrs. G. Sarala Devi, Md. Isac, B. Bhaskar and Mrs. M.N. Devika. Thus, the employees covered by this dispute have put in a minimum of 15 to a maximum of 25 years of service in the Respondent Kendra. The duties assigned to the said workmen as General Assistants are Tamil Script typing, typing of programme participants contracts, correspondence of all programme producers, maintaining of participants fees and related matters, typing of duty charts of all categories of staff, typing of telegrams to call for participants to participate in the programme, typing notes for all programme producers and typing of interview with all letters to drama artists, compeers and announcers. The nature of duties of the concerned workmen are mainly typing and clerical and they are mainly of permanent nature of business of the Respondent. The work and duties of the concerned workmen are not casual or temporary. In August, 1975 the Doordarshan Kendra for Tamil Nadu was started at Chennai. Up to 1983, the above employees who were in service were given 14 days contract per month as General Assistants and paid lump sum amount for those 14 days p.m. As they were agitating for their confirmation in service in the year 1983, the II Party/Management had by way of unfair labour practice reduced the contract period per worker from 14 days to 6 days per month. From August, 1994 due to the good offices of the conciliation officer the said contract period was increased to 10 days per month on par with the then contract lighting assistants. Now the said employees are issued the contract with designation 'artist on assignment basis to work in CBU' for ten days every month. The said eight employees would be given ten days contract per month as the three employees for 1st to 10th days, then for two employees from 11th to 20th days and for rest of the three employees from 21st to rest of the month. From January, 2000 the said employees are paid Rs. 2200/- for 10 days in a month. Earlier from 1994 they were paid Rs. 1400/- for 10 days in a month. The other categories of employees engaged on contract as artists by the Respondent are lighting assistants, graphic assistants, production assistants, film editor, sound recordist, film processor, floor assistants and painter. The work of all the said eight

categories of employees is directly connected with shooting/production of films, news, coverage, dramas, serials etc. If there is no film shooting in the studios or out door the above said categories will not have any work. The category of cameraman, producer programme executive, Assistant Station Director, and Executive Producers who are connected with film production work only are not treated as Artists on assignment but they are treated as permanent staff of the Respondent. In 1975 there was only one DD1 Chennai with two studios and four camera units in the Respondent Kendra. In June, 1994 DD2 channel was introduced and in 1999 there were four studios and 13 camera units in the Respondent Kendra. From January, 2000 DD5 (pothigai) Chennai has been introduced. Thus, there are now three channels in the Respondent Kendra. In 1975, there were 14 programme officers to prepare the various programmes to be telecast by the Respondent Kendra and in 1994, the strength of programme officers has been increased to 38. The Petitioners state that the transmission hours of the Respondent Kendra has been progressively increasing from 2-1/2 hours in 1975 to 10 hours for DD1 and DD2 plus about 15 hours for Podikai DD5 Chennai i.e. 25 hours in the year 2000. In view of the said increase in the hours of transmission and commercial activity of the Respondent the work of typing the various contracts, scripts and other work assigned to Petitioner have increased manifold and calling the Petitioners as artist on assignment basis is nothing but an unfair labour practice and exploitation of the Petitioners by the Respondent Kendra. Mr. L. Gurumurthy joined on 19-8-75, Mrs. L. Padmavathi joined on 2-11-75 and Mr. A. Khaja Mohideen joined on 1-12-75 as casual General Assistants like the Petitioner on contract were later regularised in service as General Assistants in 1985 and after ten years they were promoted as Transmission Executive w.e.f. 1995. One Mrs. V. Vijayalakshmi who joined as casual General Assitants on contract on 12-11-75 who was also given order for regularisation as General Assistants in 1985 but before that she left for Steel Authority of India Ltd. as a stenographer, Mrs. Lakshmi Swaminathan one of the Petitioners who joined on 5-11-75 and senior to Mr. A. Khaja Mohideen is still treated as Artist General Assistants on Assignment basis by the Respondent by way of unfair labour practice. At the commencement of the Respondent Kendra, it had a sanctioned strength of 4 lighting assistants only. When the production activities increased in the Respondent Kendra, gradually in the year 1984 24 lighting assistants were engaged as artists on assignment basis for ten days a month. All the said artists lighting assistants on assignment basis had been given 20 days contract per month from June, 1996 for six months and thereafter they were given monthly contracts for six months and thereafter they were regularised in service in batches. Even though the said lighting assistants do the same work now they have been designated as cameraman grade III after their regularisation.

But the Petitioners who are doing permanent nature of work are called as artists by way of unfair labour practice by 'the state' and denied the decent living by way of bonded labour and refusal to make them permanent on imaginary and filmy grounds. The action of the Respondent is arbitrary, malafide, unreasonable and unjust. In 1975, when the Respondent Kendra commenced its business there were only three sections viz. news, CBU and CEP with General Assistants. In 1982 only a separate section called commercial section was started. Till then all the work pertaining to the said commercial work was done by the Petitioners and similarly appointed General Assistant on contract at CBU section only. After the commercial section was started in 1982 one Mrs. Vijayalakshmi a permanent General Assistants was posted in that section. During her leave vacancy and whenever there was increase in the work load at commercial section M/s. Gurumurthy, Mr. Khaja Mohideen and Mr. Subba Rao who were similarly engaged like the Petitioners were given work at the said commercial section. Even Mrs. Vijayalakshmi was given permanent post of General Assistants on compassionate grounds on the death of her father who was working as Driver in the AIR. In 1985 Mr. Gurumurthy, Mr. Khaja Mohideen and Mr. Subba Rao who were earlier working as casual General Assistants on contract were regularised as General Assistants. Likewise, the following work viz. cue sheet, skeleton, fair, press schedule skeleton fair, producers and production assistants duty charts, done by the Petitioners have been now separated as a separate section called co-ordination section from 1987 and now it is manned by permanent C.G. II Staff and production assistants. From 1977 to 1986 M/s B. Baskar, Md. Esac and H. Robinson of the Petitioners had also worked in C.F.P. section. Thus, the nature of job done by the Petitioners are of permanent and increasing character and there is full scope for giving permanent work throughout the month for each Petitioner in the Respondent Kendra. But by adopting unfair labour practice the Respondent Kendra is exploiting the Petitioners and denying the legitimate status and job due to the Petitioners. Their nature of work is permanent in character and it is misnomer to call them 'artists on assignment contract'. The C.G. I & II staff who are employed along with the Petitioners in the Respondent Kendra merely do the work of typing and clerical work in commercial station, CFP section during 9.15 hrs. to 17.45 hrs (earlier 10 hrs. to 17.00 hrs.) daily. Normally, the Petitioners do the work from morning to evening till completion of the work daily. The permanent C.G. I staff Mrs. Shyamala, Mrs. Ramani, Mrs. Sundari, Mrs. Premavathy Titus, Mrs. Padmasankaran and Ms. Soundarambal, C.G. II Staff viz. Mr. Md. Hussain, Mr. S. Aadhi, Mrs. Manimekalai and Mrs. Prasanna Kumari employed in the Respondent Kendra daily claim O.T. wages on rotation as if they have done O.T. work actually showing the work done by the Petitioner and without doing any

O.T. work. The Respondent Kendra is thus, exploiting the Petitioners and favour the junior permanent staff with O.T. wages when no over time work was done by the said permanent C.G. II staff. Even though the Respondent has been practicing the said unfair labour practice and exploiting the Petitioners even since the Petitioners joined the Respondent, the O.T. bills and O.T. wages paid to C.G. I & II staff Mrs. Shyamala, Mrs. Ramani, Mrs. Sundari, Mrs. Premavathy Titus, Mrs. Padmasankaran and Mrs. Soundarambal, Mr. Mohammed Hussain, Mr. S. Aadhi, Mrs. Manimekalai and Mrs. Prasanna Kumari for the period 1-1-94 till March, 2000 by way of sample will establish the said unfair exploitation of the Petitioners by the Respondent Kendra. The Respondent Kendra is hereby called upon to produce the O.T. bills, O.T. wages payment particulars and actual work done by the said C.G. I staff Mrs. Shyamala, Mrs. Ramani, Mrs. Sundari, Mrs. Premavathy Titus, Mrs. Padmasankaran and Mrs. Soundarambal and the C.G. II staff Mr. Md. Hussain, Mr. S. Aadhi, Mrs. Manimekalai and Mrs. Prasanna Kumari during the period 1-1-94 till March, 2000 before this Hon'ble Tribunal at the time of trial of this industrial dispute. The novel intention of 'artists on assignment contract' scheme by the Respondent for the Petitioners who do the permanent nature of work is nothing but an unfair labour practice. The CBU in which the Petitioners are given work is one of other sections such as news, CFP, Commercial sections of the Respondent from 1975 to 1980, the workmen employees concerned in this dispute were working in news section, the other employees in this dispute were also working in CFP section and photo units of the Respondents when the production assistants had filed the case against the Respondent Mrs. G. Sarala Devi and Robinson of the Petitioners were given work as production assistants in 1981. By adopting the British policy of sanctioned strength and engaging the workers on contract to cheat the then Indian subjects, the Respondent which is 'The State' and a welfare state which is duty bound to take care of the citizens has no authority to exploit the Petitioners by way of unfair labour practice and deny them the permanent job, annual increments, other fringe benefits and promotions. The action of the Respondent is not that of a model employer and it instigates other private employers to exploit the workmen in India. It is not possible for the Petitioners to take up any other work during 20 days period in a month and they have already lost their other employment avenues. A number of juniors who joined the Respondent after the Petitioners have become executive and officers and reasonable justice could be rendered to Petitioners by directing the Respondent to give 25 days work in a month to each of the Petitioners. In such circumstances, it is prayed that this Hon'ble Tribunal may be pleased to pass an award holding that the action of the Respondent in engaging the Petitioners as artists on assignment basis for ten days in a month is illegal and unjust and direct the Respondent to give job of General

Assistants to the Petitioners for 25 days in a month with all fringe benefits applicable to the permanent employees of the Respondent with costs.

3. The averments in the Counter Statement filed by the II Party/Management Broadcasting Corporation of India, Prasar Bharathi, Doordharshan Kendra (hereinafter refers to as Respondent) are briefly as follows :-

The claim made by the Petitioner Union and the relief sought for by them are unsustainable in law and on facts of the case. Further claim petition is not properly framed and filed by the Petitioners who are said to be represented by their General Secretary of Bharat Doordarshan Employees Union since the said Union has no locus standi to represent the workmen whose names are not mentioned in the cause title of the claim petition. Hence, the petition is to be rejected for want of proper representation and filing according to the rules and procedures laid down in law. So far as the nature of work performed by the concerned workmen/casual General Assistants, they are expected to do and also are doing the duties such as typing of Tamil Drama Scripts, typing of programme participants contracts, typing telegram to call for the participants and to participate in the programme and typing of interview call letters for audition to drama artists, compares, news readers and announcers. Apart from the said work, they are not given any other works such as maintaining of participants fee ledger, duty chart, booking of artists, etc. since the Respondent has regular staff to attend to these works. The works carried out by the concerned workmen are casual in nature and may vary from time to time depending upon the programme requirement and schedule of programmes. Engagement of casual artists had been done only according to programme requirements. Casual artists were given 14 days assignments as the Respondent's requirement at that time necessitated such bookings. Since the workload in the Central Booking Unit has been decreased, the requirement for the service of the Petitioners who are doing typing work only in CBU section has also been decreased and they were engaged for 6/8 days only in a month, depending upon their requirements. The concerned workmen were engaged for 10 days in a month from August, 1994 onwards. It was not at the instance of the recommendation of Assistant Labour Commissioner (Central). Considering the volume of work, it was decided by the Respondent Kendra to increase the number of days of engagements to ten days in a month. Reduction or increase in the engagement depends upon the exigency of service and not decided by any other consideration. No casual artists were engaged as sound recordist or film processor. For the eight categories mentioned were initially appointed as staff artists on three years contract and later on long

term contract upto 58 years of age. Then consequent on the conversion of staff artists into Government servants all the above posts were converted into civil posts and the incumbents were converted as regular Government servants w.e.f. 6-3-82. Therefore, as on to-days any person is engaged on casual basis in any categories mentioned by the concerned workmen except film editor, that too for a maximum number of six days in a month depending upon the requirements. The transmission hours in the Regional service till 1995 was only four to four and half hours in a day. The transmission hours mentioned by them is not fully correct. However, it is admitted that there is an increase in the transmission hours. But this has nothing to do with the work performed by the casual typists like the Petitioners. During the above said timings many of the programmes were repeated, film and film based programmes were telecast. Often in the National Network Programmes like sports, international events, VIP programmes etc. are telecast which do not require the services of casual typists at all. Since the work performed by the concerned workmen is casual in nature, they were being engaged only on assignments basis and as per programme exigencies. Under such circumstances, the allegation of exploitation and unfair labour practice by the Respondent Kendra is false and the same is denied. The engagement of casual artists is only according to programme requirements and not otherwise. The Respondent followed the Government instructions that were in force at that time. The concerned workmen were engaged on casual contract for certain number of days in a month as per programme requirements to meet the urgent and unforeseen work in the Kendra of the Respondent. In the light of the directions of Hon'ble High Court of Madras in W.A.No. 500/81 dated 14-6-83 the Respondent took much care and pains to scrutinise all the claims and then only arrived at this decision to regularise the six long term casual artists. The Hon'ble Central Administrative Tribunal, Madras Bench vide order dated 18-6-87 in T.A. No. 894/86 have dismissed the case filed by Suyambulingam and 13 others in which the applicants of the present dispute are also a party with the following observations :—

“pg. 11.....Therefore, their claims for regularisation cannot be Upheld, especially, in the light of the statements produced before us by the applications themselves. In view of the matter, we have to hold that the applicants have not made out a case for regularisation as they could not have worked for the required number of days. The applicants complained of discrimination between the persons regularised and who are left out of regularisation has no substance. The persons selected for regularisation have satisfied the criteria set down for regularisation, while the others have not. Therefore, there is no basis for complain

of discrimination. From what has been stated in the counter as also the details contained in the working sheet produced before us, it is clear that the Respondents have followed the criteria laid down by the Division Bench of High Court, Madras and as such, applicant's complaint that the Respondents have not given due effect to the judgement cannot be sustained. The applicant's assertion that they will be entitled to be regularised in terms of the circular dated 3-12-80 even without completing 200 days in any one of the financial year during 1974-80 or 365 days in a block of three financial years 1974-77, 1975-78 cannot be accepted as the circular clearly lays down the requirement as to the number of days worked by each artist..... Some artists were found fit for regularisation on the basis of certain criteria laid down and the others were not found fit for regularisation. Merely because six others had been selected for regularisation by applying the criteria and the applicants have not been selected it cannot be said that there has been discrimination which results in violation of Article 14 of the Constitution. Thus, all the contentions urged by the applicants fail and the application is dismissed."

Based on the directions of Principal Bench of Central Administrative Tribunal, Bombay in O.A. No. 309, 634, 684 to 705/89—Jayant V. Nabar and Ors. Vs. UOI communicated in DG: All India Radio O.M. No. 2/26/89-S. VII(Vol. II) dt. 4-4-94 the Zonal Station Director, AIR, Chennai the competent authority issued promotion orders to the regular General Assistants. Accordingly, the Respondent Kendra relieved L. Gurumurthy and A. Khaja Mohidden to join at the new station in May, 1994 and October, 1994. Smt. Lakshmi Swaminathan one of the Petitioners, in the present dispute filed a case bearing No. O.A. 187/93 for regularisation before Central Administrative Tribunal, Madras Bench. However, this Hon'ble Tribunal vide order dated 1-11-93 dismissed her claim on the following grounds:—

"It is thus clear that the Respondent had verbatim adopted the direction of the Principal Bench in so far as para 2 and 6 of the scheme are concerned.

No doubt, any scheme for regularisation should be a rational one, intended to absorb as many as possible. There could never be a scheme which could absorb all the casual employees, irrespective of eligibility conditions. Reasonable eligibility conditions would be imposed in any scheme and only those who satisfy the conditions could claim absorption. In any scheme, some casual employees who do not satisfy the eligibility conditions are bound to feel aggrieved. So long as the conditions of eligibility are reasonable, they have to be upheld. The present scheme has been framed under the directions and suggestions of the Principal Bench, Central Administrative Tribunal. These directions themselves have been on the basis of the directions given earlier by different benches on the identical issue. Even in Madras Kendra, the scheme has been implemented and all

eligible casual artists have been absorbed and regularised. Merely because the applicants do not come within the age limit even after relaxation, it could not be urged that there should be a total relaxation. The same reasoning would apply to para 2 of the scheme relating to the applicant in O.A. No. 187/93. Para 2 has been supplied by the Principal Bench on the basis of the earlier orders of different Benches of this Tribunal. If the applicants for some reason or other had not been able to satisfy the eligibility condition, the eligibility conditions cannot be relaxed on that count. The scheme had come into force on 9-6-92 and is being implemented by all the Kendras all over India. Unilaterally, this Bench cannot modify the conditions of the scheme. It would open the flood gates of litigation to all those who do not fulfil the eligibility condition. We find no illegality or unreasonableness or arbitrariness either in para 2 or in para 6 of the scheme. We cannot, therefore, grant any relief to the applicants."

T.A. No. 894/96 was dismissed by the Hon'ble Central Administrative Tribunal, Madras Bench vide order dated 18-6-87, while holding to the effect that the Petitioners could not be compared with the six long term casual artists who had been regularised by Doordarshan Kendra, Madras because the said six long term casual artists had satisfied the eligibility criteria as prescribed in the formula dated 3-12-80, whereas the Petitioners whose claims had been rejected did not satisfy the said criteria. Apart from the above, the R. A. No. 61/87 filed by the aggrieved casual artists was dismissed by Central Administrative Tribunal, Madras Bench vide order dated 22-2-88. Again the M.P. No. 351/88 filed by them praying for fixing a time limit for compliance by Doordarshan was also turned down by Hon'ble Central Administrative Tribunal vide order dated 18-11-88, observing that there was no need to fix a time limit for preparation of the scheme for regularisation, while expressing hope that the present arrangement will continue till the preparation of the scheme. The SLA No. 3510/89 in R.A. No. 61/87 in T.A. No. 894/86 was disposed of by Hon'ble Supreme Court vide order dated 4-9-89 as follows:—

"It is stated on behalf of the Respondent that the scheme for regularisation of the employees like the Petitioners is expected to be finalised within four months. We hope the Govt. will finalise the scheme within the aforesaid period. With these observations the petition is dismissed."

After considering all these cases of similar in nature throughout India in pursuance of the order of Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 563/86, the DG: Doordarshan framed a scheme vide O.M. dated 9-6-92. The scheme as suggested by the Principal Bench includes all such cases including Sri Vasudev & Others Vs. UOI decided by the Hon'ble Supreme Court. But as per the norms prescribed in it, none of the

Petitioners (Casual General Assistants) were found eligible for regularisation. With the intention of bringing more persons under the eligibility zone of consideration, the Respondent considered all the cases once again as per the revised scheme dated 17-3-94. Only two persons namely Smt. Lakshmi Swaminathan and Sri H. Robinson were found eligible for getting one year age relaxation as per this scheme. However, as per the recruitment rules which is a fixed one, both of them were found to be over aged by 8 ½ years and 6 ½ years respectively. Regarding the relaxation of age limit to the casual artists, the Hon'ble Central Administrative Tribunal, Madras Bench had decided and observed in O.A. No. 989/92, 990/92, 1021/92, 1132/92 and 187/93 (filed by Smt. Lakshmi Swaminathan) that if an applicant, for some reason or other, had not been able to satisfy the eligibility conditions, the eligibility conditions cannot be relaxed on that count. In view of the aforesaid reasons, it is submitted that the respondent tried their level best to regularise the Petitioner, but could not do so as they had to follow the guidelines/rules framed prescribed by Govt. The engagement of Petitioners was only according to programme requirements and exigencies. Hence, the allegation that the Respondent has followed the unfair labour practice is false and denied. Because of the increased programme activities/requirements the lighting assistants who are directly connected with programme and news coverage were engaged slightly for a higher number of days. There were only 19 casual lighting assistants found eligible for regularisation as per the scheme dated 9-6-92. They were engaged for 10 days only a month at the initial stage. Subsequently, as there were increased programme activities, they were given 20 days contract for a short period. In addition, the lighting assistants have satisfied the eligibility criteria prescribed as per the scheme and were placed in the panel for regularisation. Whereas, the position of the Petitioners is entirely different. They were not found eligible for regularisation under any of the schemes prepared by the Respondent as per the directions of various Courts and Tribunals. As such, they cannot claim equal status with that of the persons found eligible for regularisation. None of the lighting assistants regularised are called as cameraman Gr. II as alleged by the Petitioners. They are designated as lighting assistants only. Cameraman Gr. II is promotion for the lighting assistants only after completion of five years regular service with cameraman training undergone at the staff training institute or the Film & Television Institute of India. Otherwise, they cannot be promoted as Cameraman Gr. III. Therefore, the statement that they are designated as Cameraman Gr. III is totally wrong and without any basis or merits. Respondent Kendra has engaged the casual artists only according to programme exigencies and has followed the rules/guidelines issued by Government of India from time to time. The Petitioner could not be regularised as they have not fulfilled the eligibility criteria laid down under various schemes. As a matter of fact, as admitted by the Petitioners, many of the

casual artists working at the Respondent's Kendra were regularised as they had fulfilled the eligibility criteria laid down by Govt. prepared based on the judgement of various Courts. Therefore, the action of the Respondent is not arbitrary, malafide, unreasonable and not justified as alleged by the Petitioners. As the Head of Kendra, the Director is empowered to utilise the required manpower under various sections available at his disposal. For instance, engagement/assignment of casual artists and the duration of each assignment/engagement may vary from time to time depending upon the requirement. The Ministry of Information & Broadcasting and Prasar Bharati are reassessing the work load of every section and with this many regular staff is being redeployed, such being the case, it will not be possible to regularise the service of the applicants. However, they are being engaged for a maximum of 10 days and in fact, the Respondents has not taken serious for reducing their number of days of engagement. The persons regular CG. I & II mentioned by the concerned workmen in para 13 of the petition were not working at a time as a group in one section. They were working in the central booking unit section during various periods one after another. Always there will be two regular CG I and II working in the Central Booking Unit section. The nature of work performed by the regular staff is different from the routing typing work performed by the concerned workmen. The permanent staff are expected to maintain artists fee particulars, ledgers, gradation of each artist, maintenance of index cards, total expenditure incurred, preparation of budget estimates etc. As Head of Office, the Director is the competent authority to sanction OTA to regular staff based on the recommendation of the Supervisory Officer (Group A or B gazetted officer). There is no justification in the claims of the Petitioners that they are deprived of their legitimate right since the nature of work performed by them is entirely different from the work performed by the regular staff. Moreover, the concerned workmen have unnecessarily dragged into picture all the persons worked in the section during the last 15 to 20 years and during various spells and stated facts which are unrelated to their engagements. The work of the concerned workmen is confined only to typing of scripts, call letters etc. the period of engagement was less over the years. As they did not come within the eligibility zone⁴ for consideration of regularisation, it is submitted that in spite of the sincere efforts taken by Respondent Kendra, the concerned workmen could not be regularised. Regarding fee revision, as and when a revision of fee is announced by the Headquarters i.e. Directorate General, Doordarshan, New Delhi, the same is implemented without any delay. Since January, 2000 these casual General Assistants are being paid Rs. 220/- per day. Regularisation of employee depends upon the criteria laid down and unfortunately none of the applicants fulfilled this and hence, could not be regularised. The Respondent Kendra has not given any assurance at any point of time that they will be regularised. In view of

the above, they are at liberty to seek employment elsewhere. It did not warrant the Respondent to increase the concerned workmen's engagement for a longer duration than the present as the Respondent engages them according to requirement of programme exigencies. Therefore, they cannot be given more engagement than at present. This has been emphasized to the Regional Labour Commissioner during the conciliation proceedings held at Chennai. In this regard, the Respondent's Headquarters at New Delhi have also explained the fact to the Ministry of Labour, New Delhi. They tried their best to regularise the services of the concerned workmen and since none of them have fulfilled the eligibility criteria they could not be regularised and consequently they have not become eligible for regularisation and further, the present requirements does not warrant the Respondent to increase the concerned workmen's engagement from ten days in a month to 25 days as requested by them. In view of the facts and circumstances explained in detail, the Respondent prays that this Hon'ble Tribunal may be pleased to dismiss the petition as devoid of merits.

4. When the matter was taken up for enquiry, no one has been examined as a witness on either side. The documents filed on either side have been marked by consent of the counsel on either side as Ex. W1 to W14 and Ex. M1 to M30 respectively. Argument advanced by the learned counsel on either side was heard.

5. The Point for my consideration is—

“Whether the demand of the Bharat Doordarshan Employees Union for increase in period of employment from 10 days to 25 days per month to the casual General Assistants is legal and justified? If not, to what relief, the concerned workmen are entitled?”

Point :—

This industrial dispute has been raised by the General Secretary, Bharat Doordharshan Employees Union, Chennai espousing the cause of casual General Assistants. The Petitioner Union is demanding increase in period of employment from 10 days to 25 days per month to casual General Assistants working in the Respondent/Management Bharat Doordharshan working in Doordharshan Kendra in Chennai. It is admitted that only the eight workmen mentioned in the Claim Statement in para 3 are concerned with this industrial dispute. It is also admitted that these employees are issued contract with designation Artist on Assignment Basis to work in CBU for ten days every month, as three employees in the first ten days in a month, two employees in the next ten days in the month and other three employees in the last ten days of the month. It is also admitted that from January 2000, the said employees are paid Rs. 2200/- for ten days in a

month, whereas they were paid earlier from 1994 Rs. 1400/- for ten days in a month. It is alleged that earlier in 1975 the transmission hour per day was only 2½ hours and it has been slowly increased and by the year 2000 the transmission hour per day is 10 hours for DD1 and DD2 channel plus about 15 hours for Pothigai (DD5 channel) and thus to a total of 25 hours per day. It is also contended that in view of the said increase in hours of transmission and commercial activity of the Respondent, the work of typing various contracts, scripts and other work assigned to the concerned workmen have increased manifold and calling the concerned workmen as Artist on Assignment Basis is nothing but an unfair labour practice and exploitation of the concerned workmen by the Respondent Kendra. It is further that the nature of job done by the concerned workmen are permanent and increase in character and there is full scope for giving permanent work throughout the month for each workman in the Respondent Kendra. But it is the contention of the Respondent/Management that the nature of work performed by the concerned workmen/casual General Assistants, such as typing of Tamil Drama Scripts, typing of programme participants contracts, typing telegram to call for the participants and to participate in the programme and typing of interview call letters for audition to drama artists, comperes, news readers and announcers and apart from the said work, they are not given any other work such as maintaining of participants fee ledger, duty charts, booking of artists, etc. since the Respondent has regular staff to attend to these works and the works carried out by the concerned workman are casual in nature and may vary from time to time depending upon the programme requirement and schedule of programmes. It is further alleged that the concerned workman were engaged for ten days in a month from August, 1994 onwards and that considering the volume of work, it was decided by Respondent Kendra to increase the number of days of engagement to ten days in a month and that reduction or increase depending upon the exigencies of service and not decided by any other consideration. It is also alleged that there is increase in the transmission hours, but this has nothing to do with the work performed by the casual typists like the concerned workman and during the above said timings many of the programmes were repeated, films and film based programmes were telecast and in this connection it is to be noted that often in the National network programmes like Sports, international events, VIP programmes etc. are telecast which do not require the services of casual typists at all and since the work performed by the concerned workman is casual in nature, they are being engaged only on assignment basis and as per programme exigencies. It is also contended that the Respondent followed the Govt. instructions that were in force at that time and that the concerned workman were engaged on casual contract for certain number of days in a month as per programme requirements to meet the urgent and unforeseen work in the Kendra of the Respondent.

6. It is not disputed that the Hon'ble High Court of Madras in W.A.No. 500/81 passed an order dated 14-6-83 giving some directions and in the light of that directions, the Respondent took a decision to regularise the 6th long term casual artists. It is also not disputed that the Central Administrative Tribunal, Madras Bench by their order dated 18-7-87 in T.A. NO. 894 of 86 have dismissed the case filed by Sri A. Suyambulingam and 13 others in which the workman concerned in this dispute were also a party. It is not disputed that the Hon'ble Central Administrative Tribunal, Madras Bench has observed in that order as follows :—

"..... Therefore, their claim for regularisation cannot be upheld especially in the light of the statement produced before us by the applicants themselves. In view of the matter, we have to hold that the applicants have not made out a case for regularisation, as they could not have worked for the required number of days. The applicants complaints of discrimination between the persons regularised and who are left out of regularisation has no substance. The persons selected for regularisation have satisfied the criteria set down for regularisation, while the others have not. Therefore, there is no basis for complaint of discrimination. From what has been stated in the counter as also the details contained in the working sheet contained before us, it is clear that the Respondents have followed the criteria laid down by the Division Bench of the High Court of Madras and as such the applicants complaint that the Respondents have not given due effect to the judgement, cannot be sustained. The applicants assertion that they will be entitled to be regularised in terms of circular dated 3-12-80 even without completing 200 days in any of the financial year during 1974-80 or 365 days in a block of three financial years 1974-77, 1975-78 cannot be accepted as the circular clearly lays down the requirement after the number of days worked by each artist Some artists were found fit for regularisation on the basis of certain criteria laid down and others were not found fit for regularisation. Merely because six others have been selected for regularisation by applying the criteria and the applicants have not been selected it cannot be said that there has been a discrimination which results in violation of article 14 of Constitution. Thus, all the contentions urged by the applicants fail and application is dismissed."

The Petitioner Union has not disputed the contention of the respondent in their Counter Statement that Smt. Lakshmi Swaminathan, one of the concerned workmen in the present dispute filed a case there in O.A. No 187/93 for

regularisation before Central Administrative Tribunal, Madras bench and however, the Hon'ble Tribunal by its order dated 1-11-1993 dismissed her claim. In the counter of the Respondent itself, grounds on which the Central Administrative Tribunal, Madras Bench dismissed the claim by their order dated 1-11-93 in O. A. No. 187/93 has been clearly mentioned. Mentioning the observations of the Central Administration Tribunal and also the order passed by the Supreme Court in S.L.A. No. 3510/89 in R.A. No. 61/87 in T.A. No. 894/86 dated 4-9-89, the Respondent has contended in their Counter Statement that after considering all these cases of similar in nature, throughout in India, and in pursuance of order of the Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 563/86, the D.G. Doordarshan framed a scheme vide O.M. dated 9-6-92. The scheme includes all such cases including Sri Vasudev and others Vs. Union of India decided by the Hon'ble Supreme Court and that as per the norms prescribed therein none of the workmen (Casual General Assistants) were found eligible for regularisation and that only two persons namely Smt. Lakshmi Swaminathan and C.H. Robinson, Petitioners in the present dispute were found eligible for getting one year age relaxation, as per the scheme and that however, as per the recruitment rules which is the fixed one both of them were found to be over-aged by eight and half years and six and half years respectively. It is further contended in the Counter Statement that regarding the relaxation of age limit to casual artists, it is observed by the Central Administrative Tribunal, Madras Bench in O.A. No. 187/93 filed by Smt. Lakshmi Swaminathan and other connected O.As that if an applicant for some reason or other had not been able to satisfy the eligibility conditions, the eligibility condition cannot be relaxed on that count. These averments have not been denied as incorrect or disputed as false by the Petitioner Union. It is categorically averred in the Counter Statement that the Petitioners were not found eligible for regularisation under any of the schemes prepared by the Respondent as per the directions of various Courts and Tribunals and that as such, they cannot claim equal status with that of the persons found eligible for regularisation. Contrary to this, as a denial of these averments, the Petitioner has not placed any materials by way of oral or documentary evidence to prove that they have come under eligibility criteria laid down under various schemes by the Respondent/ Management. It is not disputed that many of the casual artists working under the Respondent Kendra were regularised as they had fulfilled the eligibility criteria laid down by the Govt. that were prepared based on the judgements of the various Courts. So from all these materials placed before this Tribunal by the respondent as well as the Petitioner Union as exhibits on either side, it is seen that the work of the concerned workmen is confined only to typing of scripts, call letters etc. and the period of engagement was less over the years and they did not come within the eligibility zone for consideration of regularisation. So under such circumstances, it is seen that it did not

warrant the Respondent to increase the Petitioners (concerned workmen) engagement for a longer duration than at present as the Respondent engages them according to requirement of programme exigencies. So, as rightly contended by the learned counsel for the Respondent, the Petitioner Union has come forward with this demand for increase in the period of employment from 10 days to 25 days per month to the concerned eight workman because with their present engagement for ten days in a month, they cannot be considered as they come under the eligibility criteria for regularisation of service. So only to become eligible for regularisation, the Petitioner Union has made a demand on behalf of the concerned eight workmen that the Respondent Doordarshan Kendra management to increase their engagement from 10 days in a month to 25 days in a month. It is clearly established by the Respondent/Management with acceptable facts and circumstances that the demand by the Petitioner Union on behalf of the concerned workmen cannot be complied with by the Respondent/Management, as there is no scope for work for these people for 25 days in a month. The very fact that all these eight workmen were engaged as casual General Assistants for the Respondent Doordarshan Kendra in three batches of three + two + three for the 1st, 2nd and 3rd batch of every month shows that there was no sufficient work in the Respondent Doordarshan Kendra for engaging all the eight persons together for the entire month or 25 days in a month. On the other hand, the way in which they are engaged in three different batches for three different spells in a month enable all the eight workmen to get Rs. 2200/- each per month as their remuneration for their work.

7. Pending dispute, the Petitioner Union has filed a petition on behalf of the concerned eight workmen under section 33(1) read with section 33(a) of the Industrial Disputes Act, 1947 praying this Tribunal for a direction to the Respondent Doordarshan management to pay holiday wages for the concerned employees for the intervening holidays commencing from 11-8-2000. They made the demand as an interim relief through that petition. On the basis that hitherto the said eight employees are divided into three batches and each batch is given ten days work including the holidays and paid ten days wages irrespective of the intervening holidays and that in July, 2000 itself all the eight employees were given the contract for ten days and after Mr. D. Logasikamani has taken over as in-charge of Central Booking Unit, has revised that the 2nd batch of the month who had worked between the dates 11 to 20 to work from 11 to 25th i.e. ten actual working days excluding holidays and for the third batch he has been pressurising the employees to give back the contract issued in the end of July, 2000 and it is further alleged in that petition that all the employees covered by this industrial dispute, they were paid ten days wages irrespective of actual number of working days and were enjoying holidays hitherto and the said employees were denied holidays wages from

11-8-2000 extracting ten actual days of work and denying holiday wages is unfair labour practice and it is an illegality of altering the service conditions of the employees covered by this Industrial Dispute with reference to the subject matter pending adjudication before this Hon'ble Tribunal to the prejudice of the said employees. For this specific contention of the Petitioner Union on behalf of the said eight workmen, no acceptable evidence has been let in either oral or documentary, when especially, it has been disputed by the Respondent/Management in their Counter to this petition. It is specifically stated in the counter that the concerned employees are not being engaged on holidays, the question of payment of holidays wages does not arise and their payment is based on the actual number of days of engagement during the month and they cannot claim for ten days payment including holidays, for which they were actually not engaged as a matter of right and that the concerned workmen are being engaged for the same number of days before and after filing this Industrial Dispute, the question of violation of Industrial Disputes Act, 1947 does not arise. To disprove the contention of the Respondent/Management in their counter to the petition, the Petitioner Union has not placed any materials evidence oral or documentary before this Tribunal. So, under such circumstances, it cannot be said that the Respondent/Management has indulged in unfair labour practice by altering the service conditions of the employees covered by this industrial dispute, with reference to the subject matter, pending adjudication before this Tribunal and the same prejudice the employees concerned. Therefore this Tribunal cannot direct the Respondent/Management to pay holiday wages to the concerned employees covered by this industrial dispute, as prayed for by the Petitioner in the interim petition.

8. In view of the above conclusions arrived at by this Tribunal on the basis of the materials placed before this Tribunal, it can be said that the demand of Bharat Doordarshan Employees Union for increasing the period of employment from 10 days to 25 days per month to the concerned eight casual General Assistants is not legal and not justified. Hence, the concerned workmen are not entitled for any relief. Thus, the point is answered accordingly.

9. In the result, an Award is passed holding that the demand of the I Party/Union for increase in period of employment from 10 days to 25 days per month to the casual General Assistants is unjustified. Hence, no relief can be granted to the concerned workmen. No cost. Consequently, the I.A.No. 34/2001 is also dismissed.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 5th December, 2002.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :—

On either side : None

Documents Exhibited :—

For the I Party/Workman :—

Ex. No.	Date	Description
W1	31-07-92	Xerox copy of the certificate of registration with bye laws.
W2	09-06-92	xerox copy of the office memo issued by Director General of Doordarshan, New Delhi regarding regularisation of casual artists.
W3	17-03-94	Xerox copy of the office memo issued by Director General of Doordarshan, New Delhi regarding regularisation of casual artists.
W4	Nil	Orginal contract issued to Smt. R. Lakshmi by All India Radio.
W5	22-02-88	Xerox copy of the order of Central Administrative Tribunal in R.A.No. 61/87.
W6	04-09-89	Xerox copy of the order of Supreme Court in SLP 3510/89.
W7	Nil	Original order issued to Smt. R. Lakshmi and Mr. Robinson as Artist on Assignment Basis by Doordarshan.
W8	03-02-2000	Original order issued to Sri H. Robinson regarding revised fee arrears for Artist on Assignment Basis in CBU for Jan. 2000.
W9	29-07-93	Xerox copy of the Claim Statement filed by concerned Workmen in I.D No. 39/93 in Industrial Tribunal, Madras.
W10	13-01-94	Xerox copy of the Counter Statement filed by Respondent Kendra in I.D. No. 39/93.
W11	10-12-97	Xerox copy of the Award passed by Industrial Tribunal, Chennai in I.D. 39/93
W12	Nil	Xerox copy of the revised fee structure of casual music Artists w.e.f. 7-12-93.
W13	19-06-2001	Xerox copy of the office memo issued by Directorate General of Doordarshan, New Delhi regarding revision of Fee scales of performing artists.
W14	12-02-2002	Xerox copy of the office memo issued by Directorate General of Doordarshan, New Delhi regarding revision of Fee scales of performing artists.

For the II Party/Management:—

Ex. No.	Date	Description
M1	14-06-83	Xerox copy of the order of High Court in W.A.No.500/81 & W.P.No. 8617/81.
M2	27-03-85	Xerox copy of the office memo issued by Directorate General of Doordarshan, New Delhi to Smt. R. Lakshmi
M3	04-04-85	Xerox copy of the memo issued by Respondent Kendra to Smt. R. Lakshmi enclosing memo dt. 27-3-85.
M4	27-03-85	Xerox copy of the office memo issued by Directorate General of Doordarshan, New Delhi to Sri H. Robinson.
M5	18-06-87	Xerox copy of the order of Central Administrative Tribunal in T.A.No. 894/86.
M6	18-11-88	Xerox copy of the order of Central Administrative Tribunal in M.P No. 351/88 in R.A. No. 61/87.
M7	04-09-89	Xerox copy of the order of Supreme Court in SLA 3510/89.
M8	10-01-91	Xerox copy of the order of Central Administrative Tribunal in O.A. No. 440/89 and 668/87.
M9	08-02-91	Xerox copy of the order of Central Administrative Tribunal in O.A. No. 894/90, 2322/90 and 1775/90.
M10	09-06-92	Xerox copy of the office memo issued by Director General of Doordarshan, New Delhi regarding scheme for regularisation of casual artists in Doordarshan.
M11	10-06-92	Xerox copy of the guidelines issued by Director General of Doordarshan, New Delhi regarding regularisation of casual artists to all Doordarshan Kendras.
M12	13-10-92	Xerox copy of the office memo issued by Director General of Doordarshan, New Delhi regarding scheme for regularisation of Casual artists in Doordarshan.
M13	05-07-94	Xerox copy of the office memo issued by Director General of Doordarshan, New Delhi regarding revised scheme of regularisation of casual artists in Doordarshan.
M14	01-11-93	Xerox copy of the order of Central Administrative Tribunal in G.A. Nos. 989, 990, 1021, 1132/92 and 187/93.

Ex. No.	Date	Description	Ex. No.	Date	Description
M15	17-09-94	Xerox copy of the memo issued by Director of Respondent Kendra to Sri H. Robinson, Smt. G. Sarala Devi and Smt. Lakshmi Swaminathan.	M27	16-02-2001	Xerox copy of the contract issued to Sarala Devi by Respondent Kendra as Artist on Assignment Basis.
M16	11-05-87	Xerox copy of the memo issued by Controller of Programmes Doordarshan New Delhi, to all Directors of Doordarshan Regarding Contract Payment.	M28	Nil	Xerox copy of the service particulars of workmen.
M17	12-06-96	Xerox copy of the memo issued by Controller of Programmes, Doordarshan New Delhi, to all Directors of Doordarshan Kendra regarding revision of amount payable to persons engaged on casual assignment basis.	M29	13-10-92	Xerox copy of the office memo issued by Director General of Doordarshan, New Delhi regarding scheme for regularisation of casual artists in Doordarsan.
M18	02-09-98	Xerox copy of the memo issued by Dy. Controller of Programmes, Doordarshan New Delhi, to all Directors of Doordarshan Kendra regarding revision of amount payable to persons engaged on causal assignment basis.	M30	25-02-2000	Xerox copy of the letter from Ministry of Information & Broad Casting to Chief Executive Officer, Prasar Bharati Board regarding formulation of ad-hoc Staffing norms.
M19	26-04-2000	Xerox copy of the memo issued by Dy. Controller of Programmes, Doordarshan New Delhi, to all Directors of Doordarshan Kendra regarding revision on amount payable to persons engaged on casual assignment basis.			
M20	10/11-12-96	Xerox copy of the letter from Dy. Director, Doordarshan, New Delhi to Director, Doordarshan Kendra Chennai regarding conciliation meeting.			
M21	13-07-98	Xerox copy of the letter from Director, Doordarshan Kendra to Assistant Labour Commissioner (Central).			
M22	18-10-2000	Xerox copy of the contract issued to Robinson & Others by Respondent Kendra as Artist on Assignment Basis.			
M23	28-04-2000	Xerox copy of the contract issued to Robinson by Respondent Kendra as Artist on Assignment Basis.			
M24	25-08-2000	Xerox copy of the order of Central Administrative Tribunal in O. As. 293, 312, 349, 358, 365, 303, 314, 581, 582, 792, 510, 536, 552, 571/574 and 608/2000.			
M25	11-09-2000	Xerox copy of the letter from Director Doordarshan, New Delhi to Director Doordarshan Kendra, Chennai.			
M26	13-09-2000	Xerox copy of the contract issued to Robinson by Respondent Kendra as Artist on Assignment Basis.			

नई दिल्ली, 13 जनवरी, 2003

का. आ. 493.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार फैड्रल बैंक लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-कम-लेबर कोर्ट, चेन्नई के पंचाट (संदर्भ संख्या आई. डी. नं. 149/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-01-2003 को प्राप्त हुआ था।

[सं. एल-12012/201/99-आई. आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 13th January, 2003

S.O. 493.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I. D. No. 149/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Federal Bank Ltd. and their workman, which was received by the Central Government on 10-01-2003.

[No. L-12012/201/99-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 4th December, 2002

PRESENT :

K. Karthikeyan,

Presiding Officer

INDUSTRIAL DISPUTE NO. 149/2001

(Tamil Nadu State Industrial Tribunal I. D. No. 144/99)

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) between the workman Shri N. Narayanan and Management of Federal Bank Ltd. Alwaye).

Between

Sri N. Narayanan : I Party/ Workman

AND

The Chairman, : II Party/Management
M/s. Federal Bank Ltd.,
Always.

APPEARANCE:

For the Workman : Sri N. V. Dhanasekaran,
Authorised Representative

For the Management : M/s. Sreekrishnan and
S. Krishnamurthy,
Advocates.

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of Sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No.L-12012/201/99-IR(B-I) dated 29-07-1999.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, Chennai, where the same was taken on file as I.D. No. 144/99. When the matter was pending enquiry in that Tribunal, Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu State Industrial Tribunal to this Tribunal for adjudication. On receipt of records from that Tamil Nadu State Industrial Tribunal, this case has been taken on file as I.D. No. 149/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 02-02-2001 with their respective parties and to prosecute this case further. Accordingly, the learned counsel on either side along with their respective parties have appeared and prosecuted this case further.

Upon perusing the Claim Statement, Counter Statement, the oral and documentary evidence let in on either side, the other material papers on record after hearing the arguments advanced by the learned representative for the I Party/Workman and the learned counsel for the II Party/Management and this matter having stood over till this date for consideration, this Tribunal has passed the following:—

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows:—

“Whether the action of the management of Federal Bank Ltd. Chennai, in terminating the services of the workman Sri N. Narayanan with effect from 31-12-1988 is justified? If not to what relief the workman is entitled?”

2. The averments in the Claim Statement filed by the I Party/Workman Sri N. Narayanan (hereinafter refers to as Petitioner) are briefly as follows:—

The Petitioner applied for the post of permanent bankman in the Respondent/Bank on 4-6-87 pursuant to a paper advertisement. The bank called for an interview at its regional office, Anna Salari, Chennai. The Petitioner participated in the interview along with four other candidates. He was called by the bank for verification of records by letter dated 22-10-87 and after verifying the records, he was employed as bankman on 26-10-87 in the Mehta Nagar Branch. Thereafter, he worked continuously as a bankman without any blemish on his records. The Petitioner's services were terminated on 1-1-89 without notice, the Petitioner worked from 8.00 A.M. to 6.00 P.M. while the working hours is only from 9.00 A.M. to 4.00 P.M. On 21-11-87 at the request of the Branch Manager, the Petitioner opened a S. B. Account No. 4227, since the salary for all the permanent employees is to be credited in the account. However, the Petitioner's salary was never credited into this account but paid in cash by signing vouchers some times not in vouchers. The Petitioner was repeatedly making representation to the authorities to disburse his bonus. His repeated requests resulted in his superiors asking him not to come for work from 1-1-89. The Petitioner had worked from 26-10-87 to 31-12-88 continuously for 352 days without any break. After the Petitioner's removal from service from 1-1-89. He made several representations to reinstate him. The Petitioner met the Deputy General Manager who advised him to give an application for the post of bankman through the Chief Manager, Mount Road Branch. The Petitioner did the same on 28-4-94. The Petitioner caused a lawyer's Notice to be issued on 11-12-95. On 30-12-95 the Petitioner received a letter from the Respondent rejecting his request for permanent appointment as a bankman. The letter further stated that the Petitioner was engaged on a temporary basis and he was paid bonus and wages for 100 days that he worked between October, 1987 and March, 1988. The Petitioner again sent a reply through a lawyer on 2-2-96 stating that he worked for more than 300 days. Since the Petitioner realised that his various requests were not being considered, he raised an industrial dispute before the Assistant Labour Commissioner (Central) Chennai on 4-4-96. At the time, when the dispute was raised, there was a vacancy for the post of bankman in Mehta Nagar, Tirumangalam and George Town branches of the Respondent/Bank. The bank is following a procedure of engaging temporary and casual workers in order to deprive workers of permanency. In fact, many persons junior to Petitioner were being engaged on a rotation basis. In fact, one R. Rajagopalan who is the brother of R. Sukumaran, then Erode Branch Manager during 1987 was appointed as a bankman in 1989, although he had not worked even for a single day previously. The said R. Rajagopalan attended the interview along with the Petitioner in the year 1987. After the interview, the Petitioner alone was selected to work. The said R. Rajagopalan was never selected at that interview, but strangely without calling for

any advertisement or applications, the said R. Rajagopalan was appointed at Thirumangalam branch, Madras. Similarly, one R. Srinivasan, a relative of Mr. Sridharan, the then Regional Manager, Mount Road Branch who attended the interview along with Petitioner in 1987 but was not selected as a bankman was suddenly appointed in August, 1991 at the George Town Branch. Similarly, several persons have been appointed in Anna Nagar Branch, T. Nagar Branch, Mehta Nagar Branch, Service Branch, Mount Road Regional Office, G.T. Madras Branch and Royapettah Branch in the year 1997 after the Petitioner's termination. During the conciliation proceedings, the bank took the stand that the Petitioner was engaged as a temporary bankman only for 100 days altogether and there was no termination, since the Petitioner has not put in 240 days of work, his engagement was temporary as a bankman for 100 days. The bank further took the stand that stopping his engagement was in terms of the provisions of Bipartite Settlement. This is not true. The Petitioner was working under the direct control and supervision of the bank's officers. His remuneration was paid directly by the bank, therefore, he is a permanent employee of the bank. The Respondent sent a letter through its Deputy General Manager on 16-7-96 stating that the Petitioner had worked only on a temporary basis. The termination of the services of the Petitioner is in violation of Section 25F, G & H of the Industrial Disputes Act, 1947. The Petitioner is now 37 years old and has crossed the age limit for employment anywhere else. No reasons have been given for the abrupt termination of the Petitioner's service. In fact, the Federal Bank Employees' Union has in its circular dated 1-6-96 pointed out that in spite of the acute shortage of staff in sub-staff cadre, no appointment commensurate to the shortage is being made. As per the agreement between the bank and Union dated 17-4-96 temporary and part time employees would be given preference for appointment other thing being equal. While the conciliation proceedings was pending the Respondent choose to circumvent the proceedings by publishing a confidential letter dated 6-11-96 to all branches in Chennai on the subject of recruitment of bankman calling upon the branches to receive applications. The said confidential letter contemplated a notice to be published on the bank's Notice Board between 11-11-96 to 23-11-96 and thereafter sent applications so received to Personnel & Industrial Relations Department at Alwaye, Kerala. Pursuant to this circular, a notice was put upon the Notice Board on 11-11-96 containing eligibility criteria for the post stating that candidates should have passed VIII standard but not passed SSLC or equivalent examination, should not be below 20 years of age and above 35 years of age as on date of notification and should know cycling and should have been temporarily engaged as bankman in the bank as on date of this notification. But this condition is not application to candidates belong to SC/ST. Scheduled Caste/Scheduled Tribe candidates are eligible to apply irrespective of the

fact whether they have been engaged as temporary bankman in the bank or not. The Petitioner approached the Madras High Court at this stage by filing W.P. 18099 of 1996 challenging the circular dated 11-11-96 and obtained an interim stay of further proceedings of the same on 5-12-96. In the meanwhile the Petitioner once again applied for the same post on 18-11-96 and was called for an interview on 26-2-97. Thereafter the interim stay was vacated on 20-10-97 after which the Petitioner filed W.A. No. 170/98 challenging the order dated 20-10-97. The Division Bench closed the W.A. on 13-7-98 by directing the bank to consider the Petitioner's case according to rules. In the meanwhile, the Respondent had appointed the persons mentioned above. The Petitioner was shocked to receive a letter dated 5-8-98 from the Respondent stating that his application was considered for appointment as bankman and it was found that he was not eligible for appointment in the bankman cadre since he has crossed 35 years of age. The bank's action is thus contrary to the judgement of Madras High Court. The action of the Respondent in terminating the services of the Petitioner w.e.f. 31-12-88 is illegal and unjust as it violates Section 25F of the Industrial Disputes Act. The action of the Respondent in employing the Petitioner's juniors to exclusion of the Petitioner is also illegal and unjust. The Respondent's letter dated 5-8-98 stating that the Petitioner cannot be considered for appointment as he is over-aged is untenable and unacceptable. The terms of the circular prescribing age limit were available before the High Court and in spite of the fact that the Court directed the bank to consider the Petitioner. The order of High Court has thus become final and hence the bank could not have refused the Petitioner's employment on the ground of him being over-aged. Hence, it is prayed that this Hon'ble Tribunal may be pleased to hold that the termination of the Petitioner's service w.e.f. 31-12-88 is illegal and unjustified and direct the Respondent to reinstate him in service with full back wages, continuity of service and all other attendant benefits and with cost.

3. The averments in the Counter Statement filed by the II Party/Management Federal Bank Ltd., Chennai, (hereinafter refers to as Respondent) are briefly as follows:-

The allegations in the Claim Statement are denied, save those, which are specifically admitted herein. The Petitioner has no right to approach the Govt. for making a reference to this Hon'ble Tribunal. In reality, there is no industrial dispute pending between the Petitioner and the Respondent. There is much less any scope for an industrial dispute. There is no industrial dispute as defined in the Industrial Disputes Act, 1947. A reference to this Hon'ble Tribunal is misconceived and therefore, liable to be rejected by this Hon'ble Tribunal in limini. The Petitioner has applied for the post of bankman during the recruitment held in the year 1987 but he was not selected for any employment in the bank at any time. Out of the candidates, who were

interviewed in the year 1987 only two candidates viz 1st and 2nd rank holders in the rank list were selected and appointed as bankmen. At the request of the Petitioner, he was engaged at the Mehta Nagar Branch of the bank on certain days during the last quarter of 1987 and the first quarter of 1988 on purely temporary basis. The allegations thereafter he worked continuously as bankman without any blemish on his records and that his services were terminated on 1-1-89 without notice are false. He was engaged only for 49 days during the period of 67 days from 26-10-87 to 31-12-87 and for 51 days during the period of 64 days from 1-1-88 to 5-3-88. The total number of days he was engaged during the period 26-10-87 to 5-3-88 was 100 days only. The claim of the Petitioner that his services were terminated on 1-1-89 is repudiated. There is no truth or substance in the allegation that he worked in the bank from 8 am to 6 pm. During the period he was engaged from 26-10-87 to 5-3-88 he was engaged only during the office hours of the bank like the other members of the staff. He was not asked by the Branch Manager to open any S.B. Accounts. As a person engaged on temporary basis, there was no question of wages due to him for the days he worked being credited to his S.B. Account. The wages due were paid to him in cash at his request. There is no truth in the allegation that the Petitioner was making representations to Respondent about bonus. The further allegation that on account of his alleged repeated requests, the officers of the bank allegedly asked him not to come for work from 1-1-89 is not true. The Petitioner ceased to be engaged in any capacity in the bank after 5-3-88 and the claim that until 31-12-88 he had worked in the bank for 352 days without any break is wholly false. The said allegation is a blatant lie, as he was engaged only for 100 days from 26-10-87 upto 5-3-88. There was no question of removal of the Petitioner from any service or his making any representations to the bank to reinstate him. To the lawyer's notice dated 11-12-95 received on behalf of the Petitioner a reply was sent by the bank that he was not entitled to any claim. The allegation that the bank has been following a procedure of engaging temporary casual workers in order to deprive workers of permanency is false, without any substance or merit. There is no truth in the allegation that many persons juniors to Petitioner were engaged on a rotation basis. Mr. R. Rajagopalan referred to by Petitioner qualified in an interview and he was selected for permanent appointment. The Petitioner was not selected for permanent appointment in the bank in the year 1987 as claimed by him. The allegations imputing irregularities in the appointment of Rajagopalan and Srinivasan are without any truth or basis or substance. There were only 2 vacancies, Sri Rajagopala and Srinivasan were only selected and appointed in the bank. The Petitioner appeared for interview for selection of bankman for Madras city branches in 1996 but he did not qualify in the interview and could not therefore be selected for appointment. The bank adopted the correct and true position before the

conciliation proceedings referred to by the Petitioner. There is no merit or substance in the claim that temporary services of the Petitioner were terminated and that the alleged termination is in violation of Section 25F, G and H of Industrial Disputes Act, 1947. There is no termination of Petitioner's temporary engagement, which ceased w.e.f. 5-3-88. The Petitioner is not entitled to make any claim against the bank for termination of appointment. He was allowed to take the interview held in 1996 but he failed to qualify there at for such permanent employment. The temporary engagement of the Petitioner for 100 days during the period from 26-10-87 upto 5-3-88 did not confer on him any right to claim permanent appointment in the bank. The recruitment of bankman made in 1996 referred to was in accordance with the bank's norms and procedure and after due publication in the bank's notice board. The Petitioner is not entitled to question the method adopted and followed by the bank in calling for applications and determining the eligibility criteria. The proceedings in W.P.No. 18099/96 and W.A.No. 170/98 are matters of record. The Petitioner who was interviewed was found not fit for appointment in the bank. When the final order dated 13-7-98 was passed in W.A.No. 170/98 the Petitioner had crossed the age of 35 years and was not eligible to be considered for appointment in the bank under bank's rules. The bank therefore, wrote to him by letter dated 5-8-98 expressing inability to consider him for appointment as he had crossed the age of 35 years. There is no merit or substance in the claim that the bank's action in writing to him that he had crossed the age of 35 years and that he was therefore, not eligible to be considered for appointment in the bank is contrary to judgement of the High Court. The Petitioner did not render service to the bank up to 3-12-88 as alleged by him. There was no question of any termination of his service w.e.f. 31-12-88 as alleged by him. The cessation of his temporary service took place on 5-3-88 and such cessation did not in any way violate Section 25F of Industrial Disputes Act, 1947 as alleged by him. There was no question of the bank employing any juniors to Petitioner as alleged by him. The allegation about the contents of letter dated 5-8-88 are without any legal basis. The bank has acted within its rights in advising the Petitioner that he was over aged and therefore not eligible under bank's rules for appointment in the bank. The order of High Court did not in any way prevent the bank from acting according to bank's rules whereunder, for employment in the bank the upper age limit was 35 years. The order of High Court did not uphold the bank's right to act according to bank's rules and the allegation to contrary that the Petitioner could not be refused employment on account of being over aged is without any basis. The Petitioner is not entitled to be granted any relief by this Hon'ble Tribunal. There was no termination of the Petitioner's service w.e.f. 31-12-88 as alleged by him. There was no illegality about the cessation of his temporary engagement as on 5-3-88. There is no

question of reinstatement of him in service or payment of any back wages or conferring on him continuity of service or any other attendant benefits as claimed by him as he was at no time in permanent service. The claim of the Petitioner before this Hon'ble Tribunal has become stale and is liable to be rejected in limine. The question of reinstatement of the Petitioner cannot and does not arise as he was at no time in the permanent service of the bank. Hence, it is prayed that this Hon'ble Tribunal may be pleased to pass an award dismissing the claim of the Petitioner with costs.

4. When the matter was taken up for enquiry finally, 5 witnesses inclusive of the Petitioner have been examined on the side of the I Party/Workman as WW1 to WW5 and 18 documents were marked as Ex. W1 to W18 on the side of the I Party/Workman. On the side of the II Party/Management two witnesses have been examined as MW1 and MW2 and 13 documents were marked as Ex. M1 to M13. The arguments advanced by the learned representative for the I Party/Workman and the learned counsel for the II Party/Management was heard.

5. The Point for my consideration is:—

“Whether the action of the management of Federal Bank Ltd. Chennai, in terminating the services of the workman Sri N. Narayanan with effect from 31-12-1988 is justified? If not, to what relief the workman is entitled?”

Point:—

This industrial dispute has been raised by the I Party/Workman Sri N. Narayanan alleging that he was employed as bankman on 26-10-87 in the Mehta Nagar Branch of the Respondent/Bank and he worked continuously as such till his services were terminated on 1-1-1989 without notice and the said termination of the Petitioner's service is illegal and unjust as it violates Section 25F of Industrial Disputes Act, 1947 and that the Respondent/Bank management employing the Petitioner's juniors to the exclusion of the Petitioner is illegal and unjust and that when the High Court directed the bank to consider the Petitioner, it has become final and the bank could not have refused the Petitioner's employment on the ground of he being over-aged. Hence, the Respondent may be directed to reinstate the Petitioner in service with full back wages, continuity of service and all other attendant benefits. The Respondent would contend that the Petitioner had applied for the post of bankman during the recruitment held in the year 1987 but he was not selected for any employment in the bank at any time and that in the interview two candidates who are holders of 1st and 2nd rank were selected and appointed as bankman and that the Petitioner at his request was engaged at Mehta Nagar Branch of the Respondent/Bank on certain dates during the last quarter of 1987 and the first quarter of 1988 purely on temporary basis and that he was engaged

only for 49 days during the period of 67 days from 26-10-1987 to 31-12-1987 and for 51 days during the period of 64 days from 1-1-1998 to 5-3-1998 and that he was engaged for a total number of 100 days only and he had not worked in the bank for 350 days without any break as alleged by him and there was no question of removal of the Petitioner from any service and since there were only two vacancies Sri R. Rajagopal and R. Srinivasan, the 1st and 2nd rank holders in the selection process were only selected and appointed in the bank and that there is no merit in the claim that the temporary services of the Petitioner were terminated and that the alleged termination is in violation of Section 25F, G and H of Industrial Disputes Act, 1947 and that there is no termination of the Petitioner's temporary engagement, which ceased w.e.f. 5-3-88 and hence the Petitioner is not entitled to make any claim against the bank for termination of appointment and that the temporary engagement of the Petitioner for 100 days did not confer on him any right to claim permanent appointment in the bank. It is further contended that the Petitioner appeared at the interview but failed to qualify for appointment in the bank's service, the Petitioner who was interviewed was found not fit for appointment in the bank and when the final order dated 13-7-98 was passed in Writ Appeal No. 170/1998, the Petitioner had crossed the age of 35 years and was not eligible to be considered for appointment in the bank under the bank's rules. Therefore, the bank wrote to him by a letter dated 5-8-88 expressing inability to consider him for appointment as he had crossed the age of 35 years.

6. For the respective contentions on either side, five witnesses have been examined on the side of the Petitioner inclusive of himself as WW1 to WW5 and on the side of the Respondent/Management two witnesses were examined as MW1 and MW2. 18 documents on the side of the Petitioner and 13 documents on the side of the Respondent/Management have been marked as Ex. W1 to W18 and M1 to M13 respectively. It is not the averment of the Petitioner in his Claim Statement that he was appointed as permanent staff of the Respondent/Bank as a bankman. It is his specific averment that he was employed as bankman on 26-10-87 in the Mehta Nagar Branch of the Respondent/Bank and worked continuously till his services were terminated on 1-1-1989 without notice. As WW1 the Petitioner has deposed that he was not given any appointment order by the bank when he was engaged for the work in the bank and also he was not given any order by the Respondent/Bank management when he was stopped from work and he had not signed the attendance register maintained for the staff of the bank branch. It is his averment in the Claim Statement itself that for all the permanent employees of the bank their salary used to be credited in their respective S.B. account and however, the Petitioner's salary was never credited into his S.B. account

No. 4227, But, he was paid in cash by signing vouchers some time and sometimes by not signing the vouchers. In the cross examination, he has admitted that he was not issued any appointment order by the Respondent/Bank management mentioning his service conditions and he had also not requested the bank management for issuing him an appointment order, but when he requested the Manager orally, he replied him that appointment order will be coming from Head Office and he has admitted that he has not stated so in his Claim Statement. He would further admit that he was not given any appointment order, till he was denied employment on 31-12-1988. The learned counsel for the Respondent/Management would put forth an argument that the Petitioner was employed as a temporary casual worker and he was paid Rs. 30 per day as wages for which he has signed in the vouchers and those vouchers are Ex. M 10 series. In the cross examination, WW1 himself has admitted that his salary used to be paid in cash by signing vouchers and sometimes without signing vouchers and he has also admitted that the original vouchers produced by the Respondent/Bank 21 in number Ex.M10 series for the vouchers for payment made to him by the bank which contain his signatures on the reverse side of the vouchers. But he would add that those vouchers are meant for receipt of his spent amount, when he attended the clearance work for the bank. MW1 the then Manager of Mehta Nagar branch deposed that when he was working there as Branch Manager the Petitioner Sri N.Narayanan also was working in that branch as casual labour/temporary bankman and he joined the bank on 26-10-87 and he was given daily wages of Rs.30/- per day and under sub-head of wages for temporary bankman, they used to raise P & L voucher in the bank and pay the wages for the days worked by the Petitioner calculating at the daily rate wage basis and Ex. M10 series are such vouchers prepared by the bank for having made payment of wages to Sri N. Narayanan as temporary bankman and that he worked in the bank for a total period of 100 days during the period from 26-10-87 to 5-3-88 and he had not given any statement to the Petitioner as service period statement. Nothing has been elicited in the cross examination of this witness to discredit his evidence in Chief. Contra to this oral as well as documentary evidence let in on the side of the Respondent/Management, the Petitioner who has come forward with his contention that he had worked continuously from 26-10-87 to 31-12-88 for 352 days without any break he has not given any acceptable oral or documentary evidence. Under Ex.W14 a letter dated 2-12-1988 the Petitioner had made a request to the Manager of Mehta Nagar branch of the Respondent/Bank for payment of bonus for the period he worked from 26-10-87 to 31-12-88 as bankman continuously without break. This has been dated 2-12-1988. It is seen from this document that in the places wherein the date 31-12-1988 have been mentioned the last figure '8' has been corrected and when the copy of the document given to other side

has been perused, it is seen that it has been mentioned as 1987 and not as '1988'. Representative of the I Party admits that the correction made as 1988 is wrong and it is only 1987. So from this letter, it is seen that the Petitioner himself has admitted that he worked as a bankman in that branch from 26-10-87 to 31-12-87 continuously. So it belies the version of the Petitioner in his Claim Statement that he worked from 26-10-87 to 31-12-88 continuously for 352 days without any break. The very fact that he addressed that letter Ex.W14 on 2-12-88 go to show that he was not in employment on that day. So his allegation in the Claim Statement that he was terminated from service w.e.f. 31-12-88 is false. Further, Ex.W17 is said to be a statement given to the Petitioner as details of dates and number of days, the Petitioner had worked in the Mehta Nagar branch of Respondent/Bank during 1987 and 1988. This document has been marked subject to the objection of the learned counsel for the Respondent/Management. In his earlier correspondence he has not mentioned that one such certificate has been given by the Branch Manager to the Petitioner. This statement has not been issued in the letter head of the Federal Bank Ltd., as it is seen from other documents Ex.W18. This statement doesn't contain signature of any officer but it contains only rubber stamp impressions said to be that of the Respondent/Bank branch of Nelson Manickam Road, Madras. From the document itself, the learned counsel for the Respondent/Management has made an endorsement that this statement has not been given by the Respondent/Management to the Petitioner and MW1 Mr. Palaniappan also has denied having given such statement to the Petitioner. Moreover, the said statement has not been issued by the bank's official. The seal affixed in the statement appears to have been fabricated and the statement is prepared by the Petitioner for the present case. Thus, the learned counsel for the Respondent has made his written objection on the document itself for marking it as an exhibit. The Petitioner while giving evidence as WW1 has not stated that Ex.W17 is the statement given by the then Branch Manager of Mehta Nagar branch Mr. Palaniappan as the period he worked as the Branch Manager of that branch. As MW1 the concerned Branch Manager Mr. Palaniappan has given evidence that he had not given any statement to the Petitioner Sri N.Narayanan as service period statement. So, under such circumstances, and in the absence of a plea in the Claim Statement that one such service statement was issued to the Petitioner by the bank management, it can be easily concluded that it is not a genuine document and it has been prepared by the Petitioner himself for the purpose of this case, as contended by the learned counsel for the Respondent/Management. In none of his earlier correspondence, the Petitioner has mentioned about one such statement. So from all these evidences, it is seen that the Petitioner has been employed only as a temporary casual labourer for a short period and he never worked in the Respondent/Bank

for more than 240 days as alleged by him in the Claim Statement and after a period of eight years only he has raised this dispute and it is nothing but a stale claim. From the fact that the Petitioner had received wages by signing vouchers as admitted by him in the Claim Statement as well as his evidence shows that he was never employed by the Respondent/Bank as a permanent employee as a duly selected workman under the procedure of selection process, but he was engaged temporarily as a casual labourer for a short period of 100 days. So, the question of violation of Section 25F of Industrial Disputes Act, 1947 and the question of termination of his services by the Respondent/Management does not at all arise in this case. As held by the Hon'ble Supreme Court in a case reported as 2002 1 LLJ 1053 RANGE FOREST OFFICER vs. S.T. HADIMONI "the claimant has to prove by let in any evidence to show that he had worked for 240 days in preceding year by producing receipt of salary or wages or letter of appointment. Mere filing affidavit by claimant is not sufficient evidence as it is his own statement." From this decision, it is seen that the claimant/ Petitioner has to discharge his burden by proving the allegation that he had worked for 240 days to claim benefit under section 25F of the Industrial Disputes Act, 1947. From the materials available in this case, it is seen that the Petitioner/claimant has miserably failed to discharge his burden as the onus very much lies on him, as decided by the Hon'ble Supreme Court in the above cited case. Further, a perusal of the evidences given by WW2 to WW5 clearly show that they are only interested witnesses come forward to give false evidence in support of the claim of the Petitioner/Workman Sri N.Narayanan. In support of the evidence about their knowledge in respect of the service of the Petitioner in the Respondent/Bank, no documentary evidence is available. So, their evidence cannot be relied upon. Under such circumstances, it can be held that there is no question of termination of service of the Petitioner by the Respondent/Bank management w.e.f. 31-12-1988. So, it cannot be said that one such alleged action of the Respondent/Management is an unjustified action. Hence, the concerned workman is not entitled for any relief. Thus, the point is answered accordingly.

7. In the result, an Award is passed holding that the concerned workman Sri N.Narayanan is not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 4th December, 2002.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined .—

For the I Party/Workman:— WW1 Sri N.Narayanan
WW2 Sri V. Janarthanam
WW3 Sri R.Arumugam
WW4 Sri V.Kamal Kumar
WW5 Sri V.N.Dhanasekaran

For the II Party/
Management:—

MW1 Sri T.K.Palaniappan
MW2 Sri S. Periakaruppan

Documents Exhibited:—

For the I Party/Workman:—

Ex. No.	Date	Description :
W 1	22-10-87	Call letter from Respondent to Petitioner.
W2	25-02-92	Xerox copy of the letter from Branch Manager to Petitioner.
W3	03-03-92	Xerox copy of the letter from Petitioner to Branch Manager Regarding bonus and reinstatement.
W4	26-08-93	Xerox copy of the letter from Petitioner to Chairman of Respondent/Bank for appointment as bankman.
W5	01-10-93	Xerox copy of the letter from Petitioner to Manager of Respondent/Bank regarding bonus.
W6	13-10-93	Xerox copy of the letter from Petitioner to Chairman of Respondent/Bank regarding appointment as bankman.
W7	20-10-93	Xerox copy of the letter from Petitioner to Manager of Respondent/Bank regarding bonus.
W8	03-03-94	Xerox copy of the reply given by the Respondent/Bank. for the representation of Petitioner.
W9	03-11-93	Xerox copy of the reply given by Respondent/Bank to Petitioner for his letters 1st and 20th October, 1993.
W10	08-10-94	Xerox copy of the reply given by the Respondent/Bank. For the representation of Petitioner.
W 11	09-11-94	Xerox copy of the letter from Petitioner to Manager, Federal Bank Ltd. Alwaye.
W12	25-06-98	Xerox copy of the order passed by High Court in W.P. No. 18099 W.A. No. 170/98.
W 13	05-08-98	Xerox copy of the letter from Respondent/Bank to Petitioner.
W14	02-12-88	Xerox copy of the letter from Petitioner to Respondent Bank .
W 15	28-03-91	Xerox copy of the letter from Petitioner to Respondent/Bank .
W16	02-08-89	Xerox copy of the certificate issued by the Manager of Respondent/Bank to Petitioner .
W17	1987-88	Xerox copy of the service particulars showing number of Days the Petitioner has worked as bankman in the branch.
W 18	08-10-94	Letter from the Respondent/Bank to Petitioner with regard to his employment in the Respondent/Bank.

For the II Party/Management :—

Ex.No.	Date	Description
M1	28-03-91	Xerox copy of the letter from Petitioner to Respondent/Bank for appointment as bankman.
M2	16-05-91	Xerox copy of the letter from Respondent/Bank to Petitioner.
M3	30-10-93	Xerox copy of the letter from Petitioner to Chairman of Respondent/Bank for appointment as bankman.
M4	25-02-94	Xerox copy of the letter from Petitioner to Manager, Federal Bank Ltd. Chennai regarding bonus.
M5	14-11-94	Xerox copy of the letter from Petitioner to Deputy General Manager of Respondent/Bank regarding bonus.
M6	11-12-95	Xerox copy of the advocate notice to Respondent/Bank.
M7	02-02-96	Xerox copy of the advocate notice to Respondent/Bank.
M8	30-12-95	Xerox copy of the reply of Respondent/Bank to the advocate of Petitioner.
M9	16-03-96	Xerox copy of the reply of Respondent/Bank to the advocate of the Petitioner.
M 10 series (21) Nil		Original Cash vouchers of the Respondent/Bank issued to Petitioner.
M 11	22-12-94	Xerox copy of the letter from Respondent/Bank to Petitioner regarding bonus.
M12	31-12-94	Xerox copy of the letter from Petitioner to Chief Manager, Federal Bank Ltd. Madras regarding bonus.
M13	07-02-95	Xerox copy of the letter from Chief Manager to the Petitioner regarding claim of bonus.

नई दिल्ली, 13 जनवरी, 2003

का. आ. 494.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार फेडरल बैंक लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-कम-लेबर कोर्ट, चेन्नई के पंचाट (संदर्भ संख्या आई. डी. नं. 504/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-01-2003 को प्राप्त हुआ था।

[सं. एल-12012/284/97-आई. आर. (बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 13th January, 2003

S.O. 494.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby

publishes the award (I.D. No. 504/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Federal Bank Ltd., and their workman, which was received by the Central Government on 10-01-2003.

[No. L-12012/284/97-IR(BI)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 4th December, 2002

PRESENT : K. KARTHIKEYAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 504/2001

(Tamil Nadu State Industrial Tribunal I. D. No. 95/98)

[In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the workman Shri R. Arumugam and Management of Federal Bank Ltd., Madras]

BETWEEN

Sri R. Arumugam : I Party/ Workman

AND

The Branch Manager,
Federal Bank Ltd.,
Chennai. : II Party/Management

APPEARANCE :

For the Workman : Sri B. Venugopal, Advocate

For the Management : Sri R. Sreekrishnan and
S. Krishnamurthy,
Advocates

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2 (A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No. L-12012/284/97-IR (B-I) dated 06-07-98.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, Chennai, where the same was taken on file as I.D. No. 95/98. When the matter was pending enquiry in that Tribunal, Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu State Industrial Tribunal to this Tribunal for adjudication. On receipt of records from that Tamil Nadu State Industrial Tribunal, this case has been taken on file as I.D. No. 504/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this

Tribunal, with a direction to appear before this Tribunal on 07-03-2001 with their respective parties and to prosecute this case further. Accordingly, the learned counsel on either side along with their respective parties have appeared and prosecuted this case further. Both the Claim Statement and Counter Statement have been filed earlier before the Tamil Nadu State Industrial Tribunal itself, when the matter was pending dispute for adjudication.

Upon perusing the Claim Statement, Counter Statement, the documentary evidence let in on either side, the other material papers on record, the written arguments filed by the learned counsel for the I Party/Workman and after hearing the arguments advanced by the learned counsel for the II Party/Management and this matter having stood over till this date for consideration, this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

“ Whether the action of the management of Federal Bank Ltd. is justified in terminating the services of Sri R. Arumugham with effect from 8-1-91? If not, to what relief is the workman entitled ?”

2. The averments in the Claim Statement filed by the I Party/Workman Sri R. Arumugam (hereinafter refers to as Petitioner) are briefly as follows :—

The Petitioner applied for the post of Money bee in the Respondent/Bank on 10-7-77 pursuant to a paper advertisement. He is a matriculate and belongs to a backward community. The Respondent called him for an interview on 26-8-77. The Petitioner participated in the interview with three other candidates and he was selected. On 27-8-77 he was appointed as a money bee and bankman in Mehta Nagar branch. Thereafter, he worked continuously as a money bee and bankman without any blemish on his record. The Petitioner's services were terminated on 7-1-91 by compulsorily obtaining his signature on blank sheets of papers and later stating that he had resigned. The Petitioner, was paid Rs. 8/- per day for the work done during the day as a bankman/attender/peon. In the evening he would make collections for the money bee deposits for which he would be paid a commission @ 2½ per cent of collection. The salary for working as a bankman be paid weekly and the money bee commission would be paid monthly. He was repeatedly making representations to the authorities to regularise him as a bankman. His repeated requests resulted in his superiors asking him to give a resignation letter in order to be considered as a regular-bankman. In fact, the resignation letter was dictated by an officer of the Bank and he signed the same on 2-8-89. After this resignation

letter was given, there was no response from the bank. Since he was unemployed, he wrote a letter on 12-2-90 asking for his security deposit to be paid to him. He did so in utter poverty and with no means to live. Simultaneously he used to go in persona and request for his job- Since there was no response to any request, on 12-3-90 he represented in writing for his reemployment. It was that stage that he received a letter dated 14-12-90 from the Respondent asking him to give a fresh resignation letter to realise his security deposit. Once again, on the assurance that if a fresh resignation letter is given, he would be considered for the post of regular bankman, the Petitioner gave the 2nd resignation letter on 7-1-91. These resignation letters were obtained from the Petitioner by playing a fraud on him and by giving false assurances of a regular appointment. They cannot be put against him having been obtained by the bank under threat and economic compulsion. The Petitioner made repeated representations at various levels of the Respondent's bank seeking re-employment. The Petitioner was assured that his case will be considered favourably. Finally when the Petitioner realised that his requests were not being considered, he raised this industrial dispute before the Assistant Labour Commissioner (Central) on 18.7.96. At the time, when the dispute was raised, there was a vacancy for the post in Mehta Nagar branch, Tirumangalam branch and George Town branch of the Respondent/Bank. The bank is following a procedure of engaging temporary and casual workers in order to deprive the workers of permanency. In fact, the persons junior to Petitioner are being engaged on a rotation basis. During the conciliation proceedings, the bank took the stand that the Petitioner was only an agent and was drawing only commission. It also said that there was no termination, but he had resigned. This is not true. The Petitioner was working under the direct control and supervision of the bank's officers. His remuneration was paid directly by the bank. Thus, he is an employee of the bank. This is evident from a subsequent circular for absorption of such employees issued by the bank. During the course of my various representations to officials to bank, the Petitioner was informed by Personnel Manager (PIR) to apply for the post of bankman, which the Petitioner did on 27-4-94. Since there was no response, the Petitioner issued a legal notice on 24-6-96. This also evoked no response, at which stage, the Petitioner was constrained to raise an industrial dispute. The termination of the services of the Petitioner is in violation of Section 25F, G and H of Industrial Disputes Act, 1947. The Petitioner is now 45 years old and has crossed the age limit for employment anywhere else. No reasons have been given for the abrupt termination of the Petitioner's service. In fact, the Federal Bank Employees' Union has in its circular dated 1-6-96 pointed out that in spite of the acute shortage of staff in Sub-staff cadre, no appointment commensurate to the shortage is being made. As per the agreement between

the bank and Union dated 17-4-96 temporary and part time employees would be given preference for appointment other things being equal. While the conciliation proceedings were pending the Respondent chose to circumvent the proceedings by publishing a confidential letter dated 6-11-96 to all branches in Chennai on the subject of recruitment of bankman calling upon the branches to receive applications. The said confidential letter contemplated a notice to be published on the bank's notice Board between 11-11-96 to 23-11-96 and thereafter sent applications so received to Personnel & Industrial Relations Department at Alwaye. Pursuant to this circular, a notice was put upon the Notice board on 11-11-96 containing eligibility criteria for the post as candidates should have passed VII standard but not passed SSLC or equivalent examination, candidates should not be below 20 years of age and above 35 years of age as on date of notification and candidates should know cycling and candidates should have been temporarily engaged as bankman in the bank as on date of this notification. But this condition is not application to candidates belong to SC/ST. Scheduled Caste/Scheduled Tribe candidates are eligible to apply irrespective of the fact whether they have been engaged as temporary bankman in the bank or not. The Petitioner approached the Madras High Court at this stage by filing W.P. 18944 of 1996 challenging the circular dated 11-11-96 and obtained an interim stay of further proceedings of the same on 18-12-96. The interim stay was vacated on 20-10-97 after which the Petitioner filed W.A. No. 173/98 challenging the order dated 20.10.97. The Division Bench closed the W.A. on 13-7-98 by directing the bank to consider the Petitioner's case according to rules. Thereafter the Petitioner received a letter dated 31-7-98 from the Respondent stating that his application was considered for appointment as bankman and it was found that he was not eligible for appointment in the bankman cadre since he has crossed 35 years of age. The bank's action is thus contrary to the judgement of Madras High Court. The action of the Respondent in terminating the services of the Petitioner w.e.f. 08-01-91 is illegal and unjust as it violates Section 25F of the Industrial Disputes Act. The action of the Respondent in employing the Petitioner's juniors to exclusion of the Petitioner is also illegal and unjust. The Respondent's letter dated 31-7-98 stating that the Petitioner cannot be considered for appointment as he is over-aged is untenable and unacceptable. The terms of the circular prescribing age limit were available before the High Court and in spite of the fact that the Court directed the bank to consider the Petitioner. The order of High Court has thus become final and hence the bank could not have refused the Petitioner's employment. Hence, it is prayed that this Hon'ble Tribunal may be pleased to hold that the termination of the Petitioner's service w.e.f. 08-01-91 is illegal and unjustified and direct the Respondent to reinstate him in service with full back

wages, continuity of service and all other attendant benefits and with cost.

3. The averments in the Counter Statement filed by the II Party/Management Federal Bank Ltd., Chennai, (hereinafter refers to as Respondent) are briefly as follows :—

The Petitioner has no right to approach the Govt. for making a reference to this Hon'ble Tribunal. In reality, there is no industrial dispute pending between the Petitioner and the Respondent. There is much less any scope for an industrial dispute, since the Petitioner was not at no time is or was a workman as defined in Industrial Disputes Act. There is no industrial dispute as defined in the Industrial Disputes Act. A reference to this Hon'ble Tribunal is misconceived and therefore, liable to be rejected by this Hon'ble Tribunal in limine. The Petitioner was at no time in the services of the Respondent bank. The question of the management in terminating the services of the Petitioner, therefore, cannot arise. The Petitioner was at no time in the services of the Respondent/Bank and at the branch of Mehta Nagar Branch and the claim that the Petitioner's service was terminated is false. However, the claim that his services were terminated on 8.1.91 is wholly false and frivolous. The Petitioner's allegation that he was selected at the interview with three other candidates is wholly false and frivolous. He was not selected for any appointment in the bank. Further allegation that on 27.8.77 he was selected and appointed as Money Bee and bankman in Mehta Nagar Branch is false. He was not selected nor given any permanent appointment in the Respondent/Bank. The allegation that the Petitioner worked continuously as Money Bee and bankman is wholly false and mischievous. At no time did he work as Money Bee or bankman in the Respondent/Bank. He was not given any such posting. The allegation that the Petitioner's services were terminated on 7-1-91 by compulsorily obtaining his signature on blank sheets and later stating that he had resigned are wholly false and made with mala fide intentions. The Petitioner was permitted to canvass deposits for the bank on commission basis. As Money Bee canvassing for deposits in the Respondent/Bank but was only an independent person whose relationship with the bank was principal and agent. No signature was compulsorily obtained from him on blank sheets of papers as alleged by him and there was 'no necessity for the Respondent/Bank to do so. The Petitioner was paid commission on the basis of the deposits canvassed by him and not as the employee of the bank. He was not working as an attender or peon as alleged. He was not paid Rs. 8/- per day as alleged by him. He was paid commission for canvassing deposits for the bank. There was no salary paid to him for working as bankman as alleged. No such payment as alleged was made on weekly basis as claimed. The Petitioner did not make any representation to regularise him as a bankman since he was not at any time working as a bankman. No officials of

the Respondent/Bank ever asked him to submit a resignation letter as alleged. The allegation that the Petitioner was asked to submit a resignation letter in order to be considered as a regular bankman is false and mischievous. Equally false and baseless is the allegation that the resignation letter was dictated by an officer of the bank and he signed the same on 2.8.89 is a blatant lie. For considering him as a regular bankman. The said allegation is false. The Petitioner was only a deposit canvasser for the bank on commission basis. For functioning as a deposit canvasser, he kept a security deposit with the bank's Mehta Nagar branch. He submitted a letter dated 2-8-89 advising the bank that he did not wish to continue as a Money Bee for the bank and requested the bank for repayment of the amount due to him. The said letter dated 2.8.89 was given by him on his own volition. The allegations to the contrary are false and mischievous. The Petitioner sent another letter dated 15.2.90 requesting for release of the security deposit. But by a subsequent letter dated 12.3.90 he made for the first time false and frivolous allegations against the bank alleging falsely that he had put in service in the bank for about 13 years and that the bank terminated his alleged service on 8.7.89. In view of the said false allegations and claims made by the Petitioner, the bank deferred release of his security deposits. By his letter dated 12.12.90 the Petitioner requested the bank to merely release his security deposit. The bank by letter dated 14.12.90 intimated him that the security deposit would be repaid only after his resignation was accepted by the bank and requested the Petitioner to submit fresh resignation letter, so that a decision on security deposit can be taken. He did so by his letter dated 7.1.91 where upon the security deposit made by him was released. As Money Bee he was not in the service or employment of the bank and his position was only an independent contractor. The reason for the bank for writing a letter dated 14.12.90 for a fresh resignation letter was to release his security deposit. There was no assurance given by the bank to the Petitioner as alleged and the letter dated 7.1.91 was given by him not on account of any alleged assurance of the bank. Further allegation that resignation letters were obtained from the Petitioner by playing fraud on him and by giving assurance of a regular appointment are highly mischievous and false and preposterous. All the letters given by him were on his own volition and are binding on him. He is estopped from making any plea that the said letters were not binding on him and that they were obtained from him under threat and on account of economic compulsion. There was no basis in the legal notice dated 24.6.96 which fact has been made clear by the bank during the conciliation proceedings. The Petitioner at no time was in the service of the Respondent/Bank and there has been no termination of any such alleged services by the bank. The provisions of Section 25F, G & H of the Industrial Disputes Act, 1947 have no application whatsoever as alleged. The Petitioner has no right to refer to the Circular dated 1.6.96 alleged to have been issued by

the Federal Bank Employees Union, which has no relevance at all and there is no question of making reference thereto or to agreement by the bank with the said Union. The Petitioner was ill advised to approach the High Court by filing the Writ Petition in W.P. No. 18944 of 1996. The W.P. was dismissed by the High Court. On appeal, the Division Bench closed the appeal leaving the bank to consider the Petitioner's case according to rules. Since the Petitioner at no time served the bank, as he was above 35 years, he was not eligible for being considered for any appointment in the bank. The bank therefore, wrote to him a letter dated 31.7.98 that he was not eligible for appointment in the bankman cadre, since he has crossed the age of 35 years. The bank's action in doing so, is proper and the Petitioner has no right to question the same. There was no termination of Petitioner's service w.e.f. 8.1.91 as alleged. The Petitioner was at no time in the services of the bank. There has been no violation of section 25F or any other provisions of Industrial Disputes Act, as alleged. There was no juniors to the Petitioner in the services of the bank as the Petitioner was not at all employed in the bank. The terms of the circular prescribing the age limit were not the subject of consideration before the High Court at the time of disposing of the writ appeal filed by the Petitioner and the claim that the High Court directed the bank to consider the Petitioner, notwithstanding the circular is without any basis or truth. The High Court's order asking the bank to consider the Petitioner's case is in no way a bar to bank for considering and deciding as to whether or not the Petitioner was eligible under the bank's rules for appointment in the bank. The Petitioner is not entitled to any relief to be granted to him by this Hon'ble Tribunal. On the other hand, since the Petitioner was not at any time in the services of the bank, he is not entitled to claim any relief for being appointed in bank's service. The question of reinstatement of the Petitioner cannot and does not arise as he was not at no time in the services of the bank. Hence, it is prayed that this Hon'ble Tribunal may be pleased to pass an award dismissing the claim of the Petitioner with costs.

4. When the matter was taken up for enquiry, no one has been examined as a witness on either side. On the side of the I Party/Workman only one document has been marked as Ex.W1. On the side of the II Party/Management 16 documents have been marked as Ex.M1 to M16. Arguments advanced by the learned representative for the I Party/Workman and the learned counsel for the II Party/Management was heard.

5. The Point for my consideration is :—

"Whether the action of the management of Federal Bank Ltd. is justified in terminating the services of Sri R.Arnumugham with effect from 8.1.91? If not, to what relief is the workman entitled?"

Point :—

The I Party/Workman Sri R.Arnumugham has raised

this industrial dispute against the II Party/Management Federal Bank Ltd. Chennai challenging its action in terminating his service w.e.f. 8.1.91 as unjustified. It is the contention of the Petitioner in his Claim Statement that in pursuant to a paper advertisement given by the Respondent/Bank he applied for the post of Money Bee on 10.7.77 for which he was called for interview on 27.8.77 and that he participated in the interview with three other candidates and was selected and on 27.8.77 he was appointed as money bee and bankman in Mehta Nagar Branch and that thereafter he worked continuously as money bee and bankman without any blemish on his record. But his services were terminated on 7.1.91 by compulsorily obtaining his signature on blank sheets of papers and later stating that he had resigned and that the Petitioner was paid Rs. 8 per day for the work done during the day as a bankman and in the evening he would make collections for the money bee deposits for which he would be paid a commission @ 2½ per cent of collection and that his repeated requests to the Respondent/Bank to regularise him as a bankman resulted in his superiors asking him to give a resignation letter in order to be considered as a regular bankman and he signed the letter dictated by the officer of the bank on 2.8.89 after that, there was no response from the bank and that he wrote a letter on 12-2-90 asking for his security deposit to be paid to him. He received a letter dated 14.12.90 from the Respondent asking him to give a fresh resignation letter to realise his security deposit and that on the assurance that if a fresh resignation letter is given, he would be considered for the post of regular bankman, he gave the 2nd resignation letter on 7-1-91 and that these resignation letters were obtained from him by playing a fraud on him and by giving false assurances of a regular appointment and they having been obtained by the bank under threat and economic compulsion. For all these allegations of the Petitioner in the Claim Statement, he has not chosen to let in any oral or documentary evidence to substantiate the same. On the other hand, it is the specific contention of the Respondent/Management in their Counter Statement that the Petitioner was at no time in the services of the Respondent/Bank and at any branch and the claim that the Petitioner's services were terminated is false. It is further contended by the Respondent/Bank that the allegation of the Petitioner that he was selected at the interview with three other candidates is wholly false and frivolous and he was not selected for any appointment in the bank and that the Petitioner never worked as a money bee or bankman in Mehta Nagar branch of the Respondent/Bank or any other branches of the Respondent/Bank and the allegation of the Petitioner that his services were terminated on 7-1-91 by compulsorily obtaining his signatures on blank sheets of papers are all false and the Respondent/Bank has alleged that the Petitioner was permitted to canvass deposits for the bank on commission basis and as a money bee, he was canvassing deposits for the bank and he was not in

employment of the bank and the Petitioner's relationship with the bank was only principal and agent and that he never worked as an attender or peon in the bank branch and was not paid a sum of Rs. 8 per day but only paid commission for canvassing deposits for the bank and the averment of the Petitioner that he was asked to submit resignation letter by a bank official with the assurance that on submission of his resignation letter, he will be considered for regular appointment as a bankman in the bank is a blatant lie and the same is denied as highly preposterous and void of any substance. So in view of the denial of the Petitioner's averments in the Claim Statement by the Respondent/Management in their Counter Statement, the Petitioner has to prove his contentions with reliable oral or documentary evidence, but he has not filed any documents in support of his contention or let in any oral evidence for the same. On the other hand, a perusal of the documents filed on the side of the Respondent/Management clearly show that the contentions of the Petitioner are false and the averments of the Respondent/Management in their Counter Statement are correct. No document has been filed in support of the Petitioner's contention that he applied for the post of money bee/bankman in the Respondent/Bank and he was called for an interview and that he was selected in the interview and has been appointed in the post of bankman cum money bee in the Respondent/Bank. Ex.M 6 is the xerox copy of the letter dated 28-6-84 given by the Manager of Respondent/Bank Mehta Nagar Branch to the Petitioner mentioning as a money bee, wherein it is stated that the Petitioner was not regularly remitting the collections in the bank and as per the service conditions, he has to remit the previous day's collections in the bank at the commencement of business every day and he was been directed to remit the collections every day sharp at 9.00 and any lapse in this regard will be viewed by the bank seriously. Ex.M 7 is the xerox copy of the letter dated 27-9-84 given by the Branch Manager Mehta Nagar branch of the Respondent/Bank to the Petitioner wherein it is stated that in spite of earlier warning by letter dated 28-6-84, the Petitioner has not remitted the collection every day at 9.00 a.m. but remitted through the third party on 25-9-84 and he had not gone for collection on 25.9.84, so he has been warned to remit the collection every day sharp at 9.00 a.m. Ex.M 8 is the xerox copy of the letter dated 30-10-85 sent by the Petitioner to the Bank Manager stating that he is working as a Money bee for the past seven years and his commission ranges from Rs. 450/- to 500/- per month. Ex.M 9 is the xerox copy of the letter dated 2-8-89 sent by the Petitioner to the Bank Manager stating that he does not want to continue as Money Bee and he is submitting his resignation and he wanted the bank to disburse the amount due to him. Ex.M 10 is the xerox copy of the another letter dated 15-02-90 sent by the Petitioner to the bank Manager informing him that he had tendered his resignation and his resignation is still not accepted and his security deposit has not been released and he has

described himself as money bee of Federal Bank Ltd. Ex.M 11 is the xerox copy of the letter dated 12-3-90 sent by the Petitioner to the General Manager of Federal Bank Ltd., Alwaye wherein he has stated that he had put in 13 years of service in the bank as a money bee. Ex. M12 is the xerox copy of the another letter sent by the Petitioner describing himself as a money bee to the Head Office of the Respondent/Bank stating that he was working for the past 14 years as a money bee in the Respondent/Bank and the commission earned by him drastically reduced to Rs.60/- per month. Ex.M 13 is the xerox copy of the letter dated 6-11-90 sent to the Petitioner by the Manager, Staff Administration of the Respondent/Bank wherein he was informed by the bank that presently they are not recruiting personnel for the post of bankman and he may prefer an application as and when a notification is released in this connection, provided he satisfies the eligibility criteria. Ex.M 14 is the xerox copy of the letter dated 7-1-91 sent by the Petitioner to the Manager, Federal Bank Ltd. Mehta Nagar Branch, wherein he has stated that he has resigned from his money bee post and he requested the bank to release his cash certificate and security deposit in his name at the earliest. Ex.M 15 is the xerox copy of the another letter undated sent by the Petitioner to the Manager of the Respondent/Bank Head Office, Alwaye wherein, he has described himself as money bee. Ex.M 16 is the letter dated 26.2.91 sent by the Respondent/Bank to the Petitioner in respect of his resignation from the post of money bee from the Mehta Nagar Branch. Ex.M 3 is the xerox copy of the counter affidavit filed by the Respondent/Bank in the Writ Petition filed by the Petitioner before the High Court of Madras, wherein it has been clearly stated that the Petitioner was not selected or appointed in the Mehta Nagar Branch of the bank to fill a permanent post, but at his request, he was permitted to canvass deposits for the bank on commission basis as a money bee and for canvassing deposits he did not become an employee of the bank but was only an independent person canvassing for deposits for the bank on commission basis and he was not given any posting at Mehta Nagar branch of the Respondent/Bank as alleged. From all these undisputed documentary evidence, it is seen that the Petitioner has been permitted to canvass deposits for the bank on commission basis as money bee at his request and he was not given any regular appointment order and that he was not selected or appointed at Mehta Nagar Branch of the Respondent/Bank to fill any permanent post. From the various letters sent by him to the bank, he himself has described as money bee and he has submitted his resignation letter voluntarily. There is no evidence worth considering that he was forced to give one such resignation letter. There is no oral or documentary evidence on the side of the Petitioner in support of that contention that he was forced to give one such resignation letter. So under such circumstances, there is no question of the Petitioner's services have been terminated by the Respondent/Bank w.e.f. 8.1.1991. Under

such circumstances, it can not be said that his services have been terminated by the Respondent/Bank which is in violation of Section 25F, G & H of Industrial Disputes Act, 1947. From the materials available in this case, it is seen that the Petitioner has only voluntarily resigned from the post of money bee. The documents filed by the Respondent/Management clearly show that the Petitioner's engagement as a money bee in the Respondent/Bank is only on contractual basis and he was paid his remuneration by way of commission of 2½ per cent on the collection amount and it does not attract the provisions under Section 25F of the Industrial Disputes Act, 1947 as his disengagement is not amounting to any termination of permanent or temporary employee of the Respondent/Bank. Further, it is seen from the other materials available in this case that as per the direction of the Division Bench of the High Court of Madras in the Writ Petition filed by the Petitioner, the Petitioner has applied for the post of bankman in the year 1996 and it was considered by the bank and the bank has decided and sent a letter to the Petitioner stating that he is not satisfying the eligibility criteria as he is over-aged. Under such circumstances, it cannot be said that the management of Federal Bank Ltd. has terminated the services of the Petitioner Sri R. Arumugam w.e.f. 8.1.1991 and it is an unjustified action. There is no question of any termination of the services of the Petitioner by the Respondent/Bank management. So, the concerned workman is not entitled for any relief. Thus, the point is answered accordingly.

6. In the result, an Award is passed holding that the concerned workman Sri R. Arumugam is not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day, the 4th December, 2002.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :—

Documents Exhibited :—

For the I Party/Workman :—

Ex. No.	Date	Description
W1	25-10-90	Xerox copy of the letter from the Petitioner to respondent/Management

For the II Party/Management :—

Ex. No.	Date	Description
M 1	14-12-90	Xerox copy of the letter from the Respondent/ Bank to Petitioner with regard to release of security deposit.
M2	06-11-96	Xerox copy of the letter from Deputy General Manager of Respondent/Bank to Managers of branch offices of Respondent/Bank regarding recruitment of bankmen.

Ex. No.	Date	Description
M3	April, 1997	Xerox copy of the counter affidavit filed by the Respondent before the High Court in W.P. 18944/96.
M4	13-07-98	Xerox copy of the common order passed by High Court in W.A. 170 to 173/98 and W.P. 18099 to 18946 of 1996.
M5	31-07-98	Xerox copy of the letter from Respondent/Bank to Petitioner with regard to ineligibility of his appointment as Bankman in the Respondent/Bank
M6	28-6-84	Xerox copy of the letter from Manager to Petitioner instructing him to remit the collection in the bank.
M7	27-09-84	Xerox copy of the letter from Manager to Petitioner warning him to remit the collection in the bank at 9 a.m.
M8	30-10-85	Xerox copy of the letter from Petitioner to Manager of Respondent/Bank, Mehta Nagar Branch.
M9	02-08-89	Xerox copy of the letter from Petitioner to Manager Respondent/Bank tendering his resignation as money bee.
M10	15-02-90	Xerox copy of the letter from Petitioner to Manager, Head Office, Always regarding his resignation and release of security deposit.
M11	12-03-90	Xerox copy of the letter from Petitioner to General Manager of Respondent/Bank for reinstatement.
M12	11-09-90	Xerox copy of the letter from Petitioner to Manager, Head Office, Always.
M13	06-11-90	Xerox copy of the letter from Respondent/Bank to Petitioner regarding appointment as bankman.
M14	07-01-91	Xerox copy of the letter from the Petitioner to Manager of Respondent/Bank Mehta Nagar Branch regarding release of cash certificate and security deposit.
M15	Nil	Xerox copy of the letter from Petitioner to Manager, Federal Bank Ltd. Head Office regarding release of Security deposit.
M16	26-02-91	Xerox copy of the letter from the Respondent/Bank to Petitioner with regard to his resignation and release of Security deposit.

नई दिल्ली, 14 जनवरी, 2003

का. आ. 495.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनरा बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में

निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कम-लेबर कोर्ट, बंगलौर के पंचाट (संदर्भ संख्या सी आर-68/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-01-2003 को प्राप्त हुआ था।

[सं० एल-12012/319/97-आई० आर० (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 14th January, 2003

S.O. 495.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (C. R. No. 68/98) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Canara Bank and their workman, which was received by the Central Government on 13-01-2003.

[No. L-12012/319/97-IR(B.I.)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
"SHRAM SADAN"

III MAIN, III CROSS, II PHASE, TUMKUR ROAD,
YESHWANTHPUR, BANGALORE.

Dated: 1st January, 2002

PRESENT

HON'BLE SHRI V.N. KULKARNI, B.COM, LLB,

PRESIDING OFFICER

CGIT-CUM-LABOUR COURT,

BANGALORE.

C.R. No. 68/98

I PARTY

The Vice President
Canara Bank Staff Union,
No.220, II Floor,
Cubbonpet Main Road,
BANGALORE-560002

II PARTY

The Chairman and
Managing Director,
Canara Bank, I.R. Section,
Personnel Wing,
Head Office
112, J.C. Road,
BANGALORE-560 002

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order. No. L-12012/319/97/IR (B-II) dated 24th July 1998 for adjudication on the following schedule :

SCHEDULE

"Is the Management of Canara Bank is justified in imposing the punishment of stoppage of 6 years increment with cumulative effect on Shri G.R. Nanjunda Iyear? If not, to what relief the said workman is entitled?"

2. Canara Bank Staff Union represented by its President has raised this dispute.

3. The first party is working with the Management. The management imposed punishment of stoppage of 6 years increment with cumulative effect and therefore, this dispute is raised.

4. Parties appeared and filed Claim Statement and Counter respectively.

5. The case of the workman in brief is as follows :

6. The first party was appointed by the management and he has been discharging his duties honestly and diligently. Charge Sheet was issued alleging certain misconduct against him. The same is totally belated, vague and lacks material particulars of charges. He has been charge sheeted in respect of an incident alleged to have been taken place during 1991. He gave reply denying the charges but the management initiated a Domestic Enquiry.

7. Regarding Domestic Enquiry the same is not fair and proper. Details are stated in Para 6 & 7 regarding enquiry. Finding is perverse. It is further alleged in Para 9 that the enquiry is not fair and proper.

8. As against this the case of the management in brief is as follows :

9. As such misconduct is proved and therefore, punishment was correctly imposed. The employees are governed by the service conditions contained in Canara Bank Service Code, which is in consonance with the provisions contained in the various Bipartite Settlements.

10. It is the further case of the management that on 28-1-1991 and 17-5-1991, two withdrawal forms for Rs. 4000/- and Rs. 2000/- were passed for payment in SB Account No. 14906 of one Shri Rajanna and the Account Holder has denied having withdrawn Rs. 4000/- and Rs. 2000/- on 28-1-1991 and 17-5-1991 respectively. According to the Handwriting Expert the withdrawal order forms were not signed by the Account Holder and that they are in the handwriting of Shri G.R. Nanjunda Iyer. The workman forged the signature of the Account Holder and fraudulently withdrawn the amount. Misconduct is grave. The above act of the prejudicial to the interest of the bank. He has committed gross misconduct.

11. Regarding enquiry it is said that the enquiry is fair and proper and the finding given by the Enquiry Officer is proper and there is no perversity.

12. It is the further case of the management that earlier minor punishments were imposed on the workman. Details of that is given in para 7, 8 & 9 of the Counter. Management for these reasons and for some other reasons has prayed to reject the reference.

13. Management examined MW1, who conducted the departmental enquiry against the workman. Workman got examined himself to case his side.

14. This Tribunal by its order dated 13th August, 2002 has answered preliminary issue holding that the Domestic Enquiry is fair and proper. Thereafter the case was posted for arguments.

15. I have heard the learned counsels appearing for the parties. I have also carefully gone through the written arguments filed by the management. I have considered the decisions relied by the management.

16. Now that the enquiry is held as fair and proper we will have to see whether the findings of the Enquiry Officer is perverse or is based on the material before the Enquiry Officer.

17. Further we have to see whether the Enquiry Officer has rightly considered the evidence and documents before holding that misconduct is proved. The disciplinary authority on the basis of the findings of the Enquiry Officer has imposed punishment of stoppage of 6 years increment with cumulative effect. Definitely the misconduct is serious.

18. I have considered the entire material placed before the Enquiry Officer. The Enquiry Officer has very systematically held enquiry by giving full opportunity to the workman.

19. I have gone through the findings of the Enquiry Officer. In my opinion, that the Enquiry Officer is rightly appreciated the material before him and discussed the entire evidence and there is nothing to show that the finding of the Enquiry Officer is perverse. He has rightly considered the evidence of Shri S.M. Maka the handwriting expert and the misconduct is proved. Once it is held that the misconduct is proved and the finding of the Enquiry Officer is correct, it is not proper for this tribunal to interfere with the punishment imposed by the Disciplinary Authority for stoppage of six increments. The workman has not convinced so as to say that there are good grounds to interfere with the punishment imposed by the competent authority and to invoke the provisions of Section 11 A of the ID Act when punishment of stoppage of increments is imposed on the workman.

20. The management has relied the following decisions :

- (1) 2000 (II) LLJ 1395(SC)
- (2) 2001 (I) LLJ 1330(SC)
- (3) 1995 (1) = LLJ Kar(DB) = 1995 (1) LLJ 233(SB)
- (4) AIR 1998 SC 2311 = 1998 Lab IC 2514 = AIR 1998 (4) SCC 310
- (5) 1996 Lab. IC. 1056(SC)
- (6) JT 1989 (2) SC 132
- (7) AIR 1997 SC 3571
- (8) 1999 (II) LLJ 155
- (9) AIR 1997 SC 1512 = 1977 Lab IC

21. Keeping in mind the principles held in the above decision and the fact that the findings of the Enquiry Officer are correct and there is no perversity in the findings, I am of the opinion that there is no merit in this reference and this tribunal need not interfere with the punishment imposed by the Disciplinary Authority i.e. stoppage of six increment with cumulative effect. In the result I proceed to pass the following Order:

ORDER

The reference is rejected.

(Dictated to PA transcribed by her corrected and signed by me on 1st January, 2003)

V.N. KULKARNI, Presiding Officer

नई दिल्ली, 14 जनवरी, 2003

का. आ. 496.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार लक्ष्मी विलास बैंक लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-कम-लेबर कोर्ट, चेन्नई के पंचाट (संदर्भ संख्या आई डी-38/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-01-03 को प्राप्त हुआ था।

[सं. एल-12012/461/99-आई. आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 14th January, 2003

S.O. 496.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I. D. No. 38/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Lakshmi Vilas Bank Ltd. and their workman, which was received by the Central Government on 13-01-2003.

[No. L-12012/461/99-IR(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI

Thursday, the 5th December, 2002

Present : K. KARTHIKEYAN,

Presiding Officer

INDUSTRIAL DISPUTE NO. 38/2001

(Tamil Nadu State Industrial Tribunal I.D. No. 78/2000)

(In the matter of the dispute for adjudication under clause (d)) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workman Sri S. Balakrishnan and the Management of Lakshmi Vilas Bank Ltd., Karur.

BETWEEN

The General Secretary, : I Party/Claimant
Lakshmi Vilas Bank
Employees Union

AND

The Chairman, : II Party/Management
Lakshmi Vilas Bank
Ltd., Karur.

Appearance :

For the Claimant : M/s. D. Hariparanthaman &
V. Ajoy Khose, Advocates

For the Management : M/s. T.S. Gopalan & Co.
Advocates.

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No.L-12012/461/99/IR (B-1) dated 14-02-2000.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, Chennai, where the same was taken on file as I.D. No. 78/2000. When the matter was pending enquiry in that Tribunal, Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu State Industrial Tribunal to this Tribunal for adjudication. On receipt of records from that Tamil Nadu State Industrial Tribunal, this case has been taken on file as I.D. No. 38/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 23-01-2001 with their respective parties and to prosecute this case further. Accordingly, the learned counsel on either side along with their respective parties have appeared and prosecuted this case further.

Upon perusing the Claim Statement, Counter Statement, the documentary evidence let in on either side, the other material papers on record, after hearing the arguments advanced by the learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following:—

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

“Whether the management of Lakshmi Vilas Bank is justified in imposing the punishment of reducing the basic pay by one stage in respect of Sri S. Balakrishnan of Chennai Main Branch? If not, to what relief the workman is entitled?”

2. The averments in the Claim Statement filed by the I Party/Claimant the General Secretary, Lakshmi Vilas Bank Employees Union, Chennai (hereinafter refers to as Petitioner) are briefly as follows :—

The conditions of service including the duties of the award staff are governed by the industry-wise Bipartite Settlement and awards. The II Party/Management bank is also a party to the said awards and settlements and therefore, the settlement and awards are binding on them. The payment of cheques is processed on three stages. Firstly, the cheque presented for payment will come to the concerned clerk. On receipt of the instrument, the clerk concerned will verify the date of the cheque, the amount mentioned in words and figures, the amount stands in the credit of the customer, whether alterations if any are authenticated, whether the instrument is stale

or post dated, whether the instrument is drawn on that particular branch and whether there is any instruction for stop payment etc. then he will enter the same in ledger/computer and then he will issue token and also write the token number on the reverse of the instrument. Then the instrument will be sent to the passing officer. The passing officer will verify the signature in the instrument with the specimen signature and after tallying that the signature in the instrument and the specimen signature is one and the same, the passing officer will pass the instrument cancelling the same. Thereafter, the instrument will go to the cashier for payment. This is the practice in vogue all along in all the branches of the II Party/Management bank including the main branch at Chennai. The concerned workman Sri S. Balakrishnan was appointed as a clerk by the II Party/Management by an order dated 16-9-89. He was put on probation for a period of six months and he was posted at Kallakurichi branch of the II Party/Management bank. Later by an order dated 30-3-90 the II Party/Management confirmed the services of the workman in the post of clerk. The concerned workman Sri S. Balakrishnan is working as Clerk at Chennai main branch from 1-2-93. He was discharging his duties carefully and diligently. While so, he was issued with a charge sheet dated 22-4-96 by the II Party/Management wherein it was alleged that he had posted the withdrawal slips in the computer without verifying the signatures, as a matter of routine and when there were material differences in the signatures found in withdrawal slips and specimen signature that he ought to have verified the signatures as per the manual of instructions, that his negligence contributed financial loss to bank and that he had committed gross misconduct under para 19.5(j) of Bipartite Settlement. The concerned workman submitted his explanation dated 27-6-96 and categorically pointed out that he was not aware of the manual of instruction and the copy of the manual was never shown to him. He had also pointed out that he had followed all the precautions and procedures within the purview of his duties, while posting the transactions mentioned in charge sheet. He had also categorically pointed out that the signature of the drawers will always be verified with the specimen signature by the passing officials only. He had requested not to hold him responsible and to drop the matter. Without mentioning how his explanation dated 27-6-96 was not convincing, the Respondent/Management decided to hold enquiry and also appointed one Sri D.R. Parameswaran and Enquiry Officer by an order dated 2-7-96. The enquiry against the concerned workman was commenced on 28-9-96. The concerned workman participated in the enquiry and informed the Enquiry Officer that no orders were passed on his request through his letter dated 23-9-96 for engaging a lawyer to act as his defence representative in the enquiry. Since there was no reply from the management in this regard, the enquiry was

adjourned to 31-10-96. The workman's request for engaging a lawyer to assist him in the enquiry through his letter dated 23-9-96 was turned down by the Respondent/Management without any specific reason by an order dated 30-9-96. In the enquiry held on 31-10-96 the concerned workman denied the charges. The defence representative raised objections regarding the vagueness of the charge sheet and also placed his objection on record that the manual of instruction was not binding on the workman as it was never supplied or shown to him. It was also made clear that the verification of signature with the specimen signature was not part of his service condition. The defence representative pointed out that the workman could not defend himself effectively in the absence of specific portion of manual of instruction is mentioned, when the manual of instruction contained several chapters and particulars. Without placing any proof as to whether the existence of manual of instruction was ever put on notice to workman or whether it was supplied or shown to him, the Presenting Officer contended that the manual of instruction was binding on the workman simply on the ground that it was available in the branch. The Enquiry Officer has held that the manual of instruction was binding on all the employees of the bank as it was available in every branch of the bank. The Enquiry Officer failed to see that mere availability of manual of instruction without notifying the availability and circulating and putting on notice about the availability of manual of instructions will not come into force and it will not be binding on the workman. The Enquiry Officer also failed to see that when the procedure as to passing of instruments is governed by the provisions of Bipartite Settlement it cannot be unilaterally altered, modified or changed by the Respondent/Management by issuing manual of instructions. Thus, the Enquiry Officer before deciding the case on merits, came to a predetermined conclusion that the manual of instruction was binding on the workman that too when there is no iota of evidence to prove that the manual of instruction was brought known to the workman. In the enquiry, the management filed 33 documents and no witness was examined on the side of the management to prove the charge levelled against the concerned workman. It is a farce of an enquiry. Since no witness was examined on the side of the management, the concerned workman also did not examine any witness on his side. On 10-01-97 the workman filed 4 documents on his side and the same were marked as Ex. D 1 to D4. On 29-1-97 the concerned workman produced a letter dated 30-01-1995 addressed by the I Party/Union to the Chairman of the bank and wanted to mark the same in enquiry. The Enquiry Officer refused to mark the above letter based on the objection of Respondent/Management representative that the letter was executed by a third party and it was only a Xerox copy. But the Enquiry Officer did not apply the same yardstick in the case of

management and allowed the management to mark Xerox copies without examining the authors of documents. Thus, the approach of the Enquiry Officer was totally biased, partial and one sided. The written arguments dated 9-6-97 on behalf of the workman was submitted by defence representative wherein it was specifically contended that the verification of specimen signature was not within the purview of the duties of the concerned workman. The management representative filed his written arguments dated 21-4-97 in which it was contended that the workman had posted the cheques without verification in the computer that as per the manual of instruction, he ought to have posted the instruments only after verifying the signature, that the workman passed the instruments without verifying the signatures and that the workman has not proved that he was not bound to verify the signature. The Enquiry Officer's findings was communicated to the concerned workman by a letter dated 19-12-97 after about one year from the close of enquiry proceedings. Without calling for the views of the workman over the findings of the Enquiry Officer, the Disciplinary Authority straight away concurred with the findings of the Enquiry Officer and held the workman guilty of the charges in his second show cause notice dated 31-01-98 and proposed to impose the punishment of reducing the basic pay by one stage with immediate effect. Thus, the workman is denied an opportunity to put forth his view on the findings of the Enquiry Officer, which is violative of principles of natural justice. Based on the telegram of the concerned workman dated 6-2-98, personal hearing was fixed on 21-2-98. On 21-2-98, the workman appeared before the Disciplinary Authority along with his defence representative and submitted his written submissions dated 21-2-98. Without considering any of the submissions made by the workman during the personal hearing, the Disciplinary Authority by an order dated 14-3-98 confirmed the proposed punishment of reduction of the basic pay of the workman by one stage with immediate effect. His order was communicated by the bank to the workman by a letter dated 18-3-98. By a letter dated 8-4-98 the concerned workman requested the Appellate Authority to give him a hearing along with his defence representative for filing appeal before him, which was not given. The concerned workman preferred an appeal to Appellate Authority vide letter dated 19-6-98 and pointed out how the findings of the Enquiry Officer and the decision of the Disciplinary Authority were perverse and unsustainable and also he requested the Appellate Authority to exonerate from the charges and the punishment imposed. Unfortunately the Appellate Authority, without considering the contentions of the workman, dismissed the appeal and confirmed the order of the Disciplinary Authority by an order dated 1-8-98. Thereafter based on the request of the concerned workman, the I Party Union resolved to raise an industrial dispute over the punishment imposed to Sri

S. Balakrishnan, the concerned workman. The I Party Union raised an industrial dispute against the punishment imposed to Sri S. Balakrishnan by their application dated 3-11-98. The II Party/Management filed their remarks dated 3-12-98. As the conciliation officer could not bring out any mediation, he submitted his failure report dated 10-12-99. Thereafter, the Government of India by an order dated 14-2-2000 referred the dispute for adjudication by this Hon'ble Tribunal. The action of the management in imposing the punishment of reduction in basic pay by one stage with immediate effect to Sri S. Balakrishnan is totally illegal, arbitrary and unjust and the same is liable to be set aside. The enquiry was not conducted in a fair and proper manner and in accordance with the principles of natural justice and the concerned workman was not given fair and reasonable opportunity. Therefore, it is prayed that this Hon'ble Tribunal may be pleased to pass an award holding that the action of the II Party/Management in imposing the punishment of reducing the basic pay by one stage to Sri S. Balakrishnan as unjustified and consequently set aside the punishment and direct the II Party/Management to pay all arrears and consequential benefits and award costs.

3. The averments in the Counter Statement filed by the II Party/Management Lakshmi Vilas Bank Ltd. Karur (hereinafter refers to as Respondent) are briefly as follows :—

The II Party/Management Lakshmi Vilas Bank Ltd. has got hierarchy of employees with delegation of function at each level. Since the II Party/Management has establishments throughout the country and as it employs more than 1000 employees, the various instructions to the employees are codified in the form of manual and it is called as Manual of Instructions. One of the instructions in the manual is that when a cheque is presented for payment it should be handed over to the ledger clerk in whose ledger the account stands. The ledger clerk is required to scrutinise the cheque carefully and satisfy himself about various aspects, one of which is to verify that the signature of the accountholder in the cheque tallies with the signature found in the specimen signature card. In the letter of appointment issued to employees they are clearly informed that they should conform to the instructions which are in force in the discharge of their duties. The concerned clerk was working in the Thambu Chetty Sreet, Chennai. In April, 1995 he was the ledger clerk of S.B. Account. The accountholders of S.B. Account Nos. 45695, 50389, 50786 and 24545 complained about the wrong debits in their accounts. When the cheques which were tendered for payment with reference to the above debits were verified with the signatures of the accountholders in the specimen cards they did not tally. The particulars of cheques and the payments made against the said instruments were not based on genuine signatures in the cheques. The bank

was obliged to refund amounts to the concerned accountholders by crediting their accounts. Thus, it became evident that the signatures of the above four accountholders in the cheques were not verified with the specimen signature cards by the ledger clerk nor the passing officer took care to verify the signatures with that of the account holders. On 22-4-96 a charge sheet was issued to the concerned clerk charging him with misconduct under para 19(5)(j) of Bipartite Settlement. The concerned clerk gave a reply dated 27-06-96 pleading that he was not aware of the manual of instructions and asserting that he had taken all precautions in clearing cheques for payment. It is significant to mention that the concerned clerk did not dispute that the signatures of the accountholders were not genuine. As the explanation of the concerned clerk was not satisfactory, he was asked to appear for enquiry. In the enquiry, the relevant extract of the bank's manual of instructions was filed as an exhibit. The five instruments against which payments were made also marked as Ex. M 13 to M 17. The corresponding specimen signature cards were marked as Ex. M 5 to M 8. On a consideration of the materials placed before him, the Enquiry Officer gave his report dated 20-11-97 holding that the charge against the concerned clerk was duly made out. He was asked to appear for a personal hearing before the Disciplinary Authority. The personal hearing was held on 21-2-98. After considering his representation the Disciplinary Authority passed orders on 14-3-98 awarding punishment of reducing his basic pay by one stage. The appeal preferred by the concerned clerk against the orders of the Disciplinary Authority was also dismissed. The punishment imposed on the concerned clerk is perfectly valid and justified and should not be interfered with for all or any other reasons as in the claim statement. In respect of wrong payments made against the five instructions, the concerned officer was also proceeded with and a punishment of stoppage of one increment with cumulative effect was awarded on the officer Mr. Kuppuswamy. In the order of appointment dated 6-9-89, it was specifically mentioned that he shall abide by the service rules of the bank which were in force for the time being and as amended from time to time. Further, it was also stated that he shall faithfully and diligently observe and obey all regulations, rules, directions or instructions in force in the bank as well as those issued from time to time. It cannot be accepted that the concerned clerk was not aware of the manual of instructions. In any event, the alleged ignorance of such instructions is not a defence. It was part of duties of the ledger clerk to verify the signatures on the instrument with the specimen signature in the card.

Apart from the ledger clerk, the passing officer was also required to verify genuineness of the signature by reference to the signature in the specimen signature card. In the enquiry, concerned clerk was assisted by one Mr. R. Seshadri, joint secretary of the Petitioner Union. The

manual of instructions was binding on all the employees of the bank and no employee can say that he was not aware of the instructions or the instructions was not binding. It is also denied that it was not the duty of the ledger clerk to verify the signature on the cheque with the signature in the specimen signature card. Every branch is provided with manual of instructions and all employees make reference to it whenever they need any clarification. The defence put up by I Party Union cannot be countenanced. The concerned clerk did not dispute that payment was made on the basis of instrument which did not bear the genuine signature of the account holder. The only question was whether it was part of the duties of the ledger clerk to verify the signature and if it was part of the duties, whether he has neglected to perform the duty. There was no scope for any oral evidence. The relevant documents were marked with the consent of the concerned clerk. None of the grounds urged by the I Party calls for interference by this Hon'ble Court. Therefore, it is prayed that the Hon'able Court may be pleased to pass an award rejecting the claim of the I Party.

4. When the matter was taken up for enquiry finally, no one has been examined as a witness on either side. On the side of the I Party/Claimant 13 documents have been marked as Ex. W1 to W13 and on the side of the II Party/Management 48 documents were marked as Ex. M1 to M 48. Arguments advanced by the learned counsel on either side were heard.

5. The Point for my consideration is —

"Whether the management of Lakshmi Vilas Bank is justified in imposing the punishment of reducing the basic pay by one stage in respect of Sri S. Balakrishnan of Chennai Main Branch? If not, to what relief the workman is entitled?"

Point:—

This industrial dispute has been raised by the I Party/ Claimant Lakshmi Vilas Bank Employees Union, Chennai espousing the cause of the workman Sri S. Balakrishnan and by challenging the action of the Respondent/Bank management about the imposition of punishment of reducing the basic pay by one stage on the workman Sri S. Balakrishnan of Chennai Main Branch. It is admitted that the concerned clerk, who was working in Thambu Chetty Street branch of the Respondent/Bank at Chennai in April, 1995, was attending the work as ledger clerk of Savings Bank account. It is also admitted that the charge memo dated 22-4-96 has been issued to him alleging that the concerned workman has committed some misconduct in respect of making payments towards five cheques pertaining to five different S.B. Accounts, charging him with a misconduct under para 19.5(j) of Bipartite Settlement. Ex. M1 is the xerox copy of the charge sheet issued to the concerned workman. He submitted an explanation dated 27-6-96 for the charge sheet and the xerox copy of that reply is Ex. M2. As the explanation submitted by the

concerned workman was found by the Respondent/Management as unsatisfactory, a domestic enquiry has been initiated by the Respondent/Management by appointing an Enquiry Officer to enquire into the charges levelled against the concerned workman under Ex. M 1. Then the Petitioner gave an objection letter to the Chairman of the Respondent/Bank dated 23-9-96 for the appointment of Sri Selvaraj, Law Officer as Presenting Officer on the ground that he is a lawyer and legally qualified officer and requested the management to permit him to engage a lawyer to defend him in the enquiry. The xerox copy of the letter dated 23-9-96 of the concerned workman to the Respondent/Management is Ex. M 3. For the request of the concerned workman to engage a lawyer to defend himself in the domestic enquiry the Chairman of the Respondent/Bank has given a reply dated 30-9-96 stating that he do not see any merit on his representation and however, it is open for him to engage a defence representative as provided under the provisions of Bipartite Settlement. The xerox copy of the letter dated 30-9-96 is Ex. M 4. Prior to that the concerned workman has submitted a representation to the Enquiry Officer on 28-9-96 stating that for his letter of request dated 23-9-96 seeking permission to engage a lawyer to act as his defence representative, he had not received any reply so far and hence, he requested the Enquiry Officer to adjourn the enquiry. The xerox copy of that letter is Ex. M 5. Along with that representation of the concerned workman on 28-9-96 filed the enquiry proceedings for the subsequent dates have been filed as xerox copy as form part of the proceedings of the enquiry. The 5 instruments against which the payments made were also marked in the said enquiry as Ex. M 13 to M 17. The xerox copies of those documents have been filed before here this Tribunal as Ex. M 18 to M 22. The corresponding specimen signature cards which were marked as Ex. M 5 to M 8 have been filed in xerox copies as Ex. M 10 to M 13. The account opening forms of those four customers furnished by them to the bank at the time of their opening the S.B. account have been marked as Ex. M 1 to M 4 in the enquiry. The xerox copies of those documents have been filed here as Ex. M 6 to M 10. Apart from that the documents that have been exhibited on the side of the management in the enquiry which were marked as exhibits on the management side also have been filed as xerox copies here along with the 5 exhibits marked by the delinquent employee in the enquiry as Ex. D 1 to D 5 also have been produced xerox copies here and marked as Ex. M 39 to M 43. The Enquiry Officer submitted his enquiry report by his letter dated 20-11-97 to the Disciplinary Authority. The xerox copy of the same is Ex. M 43. Then the Disciplinary Authority had informed the concerned workman to appear for personal hearing and the personal hearing was held on 21-2-1998. Prior to that the Disciplinary Authority accepting the findings of the Enquiry Officer has proposed punishment of reducing the basic pay of the concerned workman by one stage with immediate effect and directed the concerned workman to

appear for personal hearing. For that the proceedings drawn by the Disciplinary Authority on 31-1-1998 has been filed as xerox copy. It is Ex. M 44. In the personal hearing the concerned workman has submitted written submission to the Disciplinary Authority. The xerox copy of the same is Ex. M 45. Then after considering the representations of the concerned employee, the Disciplinary Authority passed orders on 14-3-98. The xerox copy of the same is Ex. M 46. Then the concerned workman has preferred an appeal to Appellate Authority. The xerox copy of that appeal dated 24-6-98 is Ex. M 47. That appeal was dismissed by an order dated 1-8-98 by the Appellate Authority. The xerox copy of the same is Ex. M 48. The II Party/Bank Management had also proceeded against the concerned officer for the wrong payments made in respect of the five instruments and imposed the punishment of stoppage of one increment with cumulative effect. The said officer is by name Mr. S. Kuppasamy. Ex. W 4 is the xerox copy of the charge sheet dated 22-6-96 issued to the said S. Kuppasamy. Ex. W 6 is the xerox copy of final order dated 19-7-97 passed by the Disciplinary Authority against the officer Sri S. Kuppasamy in respect of the charges. Ex. W 10 is the xerox copy of the Enquiry Officer's report in respect of enquiry conducted against the other officer Sri S. Kuppasamy. Like that, enquiry was initiated against one Mrs. Geetha R. Rao. The xerox copy of the chargesheet issued to her dated 22-4-96 is Ex. W 11. The xerox copy of the Enquiry Officer's report for the enquiry conducted against her is Ex. W 12 and the proceedings of the Disciplinary Authority and final order issued to Mrs. Geetha R. Rao is dated 14-7-97 and the xerox copy of the same is Ex. W 13. From these documents, it is evident that the concerned officer Sri Kuppasamy and the other accountant Mrs. Geetha R. Rao have also been proceeded against by Respondent/Management for this act of misconduct apart from the concerned workman Sri S. Balakrishnan and they were also given punishment by the Disciplinary Authority by stoppage of their increments.

6. It is the contention of the learned counsel for the I Party/Union that the denial of the Respondent/Bank management for the assistance of a lawyer to the concerned workman in the enquiry is against the principles of natural justice, when especially the Presenting Officer in the enquiry was a lawyer. It is seen from the entire enquiry proceedings that the concerned workman was duly represented by a defence representative one Mr. R. Seshadri an office bearer of the Union. The learned counsel for the Respondent/Management would argue that para 19.12(a) provides that the employee may be permitted to be defended with the bank's permission by a lawyer. It is seen from the available records that the concerned workman Sri S. Balakrishnan has requested the Respondent/Bank management to permit him to engage a lawyer to defend him in the enquiry. But the Respondent/Management has given a reply stating that permission requested cannot be granted. Therefore, the concerned employee cannot claim assistance of a

lawyer as a matter of right or matter of course. At the same time, the said provision also provides that an employee could be represented by an office bearer of registered trade union of bank employee of which the concerned workman is the member. The defence representative being an office bearer of the Trade Union used to take part in similar domestic enquiry conducted by the Respondent/Management to enquire into the charges levelled against the workman. It is not the case of the concerned workman or the Petitioner Union that the concerned office bearer of the union was incompetent to represent the concerned workman in the enquiry as defence representative for want of any experience or for want of any procedural knowledge of such domestic enquiries. It is seen from the enquiry proceedings that the entire proceedings have been proceeded on the basis of the documentary evidence relied upon by the Respondent/Bank management as facts about this case. No serious legal question has been involved in the domestic enquiry for which the defence representative was unable to deal with, since he is not a legally qualified person as the Presenting Officer. So under such circumstances, it cannot be said that any prejudice has been caused to the concerned workman by Respondent/Bank Management in not permitting him to have the assistance of a lawyer in defending himself in the enquiry. Nowhere, the concerned workman has made a representation before any authority such as Enquiry Officer, Disciplinary Authority as well as the Appellate Authority that he was not able to defend his case effectively through his defence representative an office bearer of the union, who is not a qualified person in law. It is also not his case that the concerned defence representative, who is an office bearer of the union is an inexperienced person and not capable of defending his case before enquiry effectively and properly and thereby prejudice has caused to him.

7. The xerox copy of the Manual of Instructions in respect of clause XIII and XIV have been filed. Para XIII deals with the subject of Current Account which lays down the procedure with regard to payment of cheque. It enumerates the checklist is to be followed when a cheque is presented for payment and handed over to the ledger clerk and the ledger clerk should scrutinise the cheque carefully and satisfy himself with the signature of the drawer on the cheque tallies with the specimen signature. So these are all the instructions ought to have been followed by the concerned workman Sri S. Balakrishnan while dealing with the work of payment of cheques. He cannot deny that he was issued an appointment order Ex. W1 which contains the clause X wherein he has been informed that he should observe and obey the regulations, rules, directions and instructions in force in the bank or from time to time issued by the bank. Therefore, as rightly contended by the learned counsel for the Respondent/Management, the concerned workman Sri S. Balakrishnan was found to follow the Manual of Instructions in discharging his duties as ledger clerk while passing cheque for payments. There

is sufficient evidence available in this case by way of unimpeachable documentary evidence that the concerned workman Sri S. Balakrishnan has failed to discharge his duties properly by following strictly the instructions given in the Manual of Instructions which he is bound to follow. It is also not the case of the concerned workman that he cannot have any access to the specimen signature card, which is in the custody of the Passing Officer. In Ex. W 3 a letter sent by Union to the Respondent/Bank Management, it is simply stated that a clerk who attends the cheque presented across the counter for clearance duly verify the instrument in all aspects like cheque No., date, words and figures etc. and posting the same in the ledger cannot devote his time for custody of the specimen cards and verifying the signatures. It is not the case of the concerned workman or the Petitioner Union that such specimen signature cards were not available for verification by the concerned clerk when he entertains the cheque presented for clearance. As per the Manual of Instructions, it is the duty of the said clerk to verify the same in respect of the drawer signature available in the specimen signature card. He cannot simply shirk his responsibility on the ground that due to huge volume of cheques he has to attend as clerk, it is not possible for him to verify the signature. It is against the directions of the bank in the Manual of Instructions. Then in Ex. M 2 explanation also, the concerned workman has not stated that he has no access to specimen signature cards and therefore, he has not verified the drawer's signature. As it is contended by the learned counsel for Respondent/Management the Manual of Instructions codifies the functions and duties of various categories of employees. It is not the case of the Petitioner Union there is inconsistency between the Bipartite Settlement terms and the Manual of Instructions of the bank. From the available materials, it is seen that the Respondent/Management has proved the charges levelled against the concerned workman in the enquiry conducted before the Enquiry Officer with acceptable documentary evidence and on that basis, the Enquiry Officer has come to the conclusion that the concerned clerk Balakrishnan has failed to verify the drawer's signature on the 5 instruments referred to in the chargesheet with the respective signatures in the specimen signature cards which resulted in unauthorised payment and a loss to the bank and this has been committed along with the concerned passing officials, who also failed to verify the drawer's signature and the concerned other officials also have been proceeded against by the Respondent/Management by issuing separate chargesheets and they have also been given punishments. Thus, the misconduct committed by the concerned workman Sri S. Balakrishnan as well as other officials of the bank in respect of passing of cheques have been established in the separate domestic enquiry conducted against each one of them as it is evidenced from the documents filed before this Tribunal. So Under such circumstances, it can be concluded that there is no

merit in case of the I Party/Union and it can be held from the available materials that the management of Lakshmi Vilas Bank Ltd. is justified in imposing the punishment of reducing the basic pay by one stage in respect of the concerned workman Sri S. Balakrishnan, Chennai Main branch. Hence, the concerned workman is not entitled to any relief. Thus, the point is answered accordingly.

8. In the result, an Award is passed holding that the concerned workman Sri S. Balakrishnan is not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 5th December, 2002.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined:—

On either side : None

Documents Exhibited:

For the I Party/Workman:

Ex. No.	Date	Description
W1	18-09-90	Xerox copy of the office order issued to concerned workman by the Respondent/Bank.
W2	30-03-90	Xerox copy of the confirmation order issued to concerned workman by the Respondent/Bank.
W3	30-01-95	Xerox copy of the letter from I Party/Union to Respondent/Management.
W4	22-04-96	Xerox copy of the chargesheet issued to Sri S. Kuppusamy.
W5	09-06-97	Xerox copy of the written brief submitted by Defence representative of concerned workman to Enquiry Officer.
W6	09-07-97	Xerox copy of the proceedings of Disciplinary Authority.
W7	Nil	Extract of relevant portion of Manual of Instructions.
W8	Nil	Extract of relevant portion of Dipartite Settlement.
W9	Nil	Proforma of requisition letter for issuance of loose Cheque leaf.
W10	04-06-97	Xerox copy of the report of Enquiry Officer against Sri S. Kuppusamy.
W11	22-04-96	Xerox copy of the charge sheet issued to Mrs. Geetha.
W12	06-06-97	Xerox copy of the Enquiry Officer's report against Mrs. Geetha R. Rao.

W13 14-07-97 Xerox copy of the proceedings of Disciplinary Authority and final order issued to Mrs. Geetha R. Rao.

For the II Party/Management:

Ex. No.	Date	Description
M1	22-04-96	Xerox copy of the charge sheet issued to concerned workman.
M2	27-06-96	Xerox copy of the explanation submitted by concerned workman to chargesheet.
M3	23-09-96	Xerox copy of the letter from concerned workman to Chairman of Respondent/bank seeing permission to engage a lawyer.
M4	30-09-96	Xerox copy of the reply given by Respondent/Bank to concerned workman.
M5	28-09-96 to 29-1-97.	Xerox copy of the proceedings of the enquiry.
M6	30-09-96	Xerox copy of the account opening form of S.B. A/c. 24548. S. Nappinai.
M7	04-08-93	Xerox copy of the account opening form of S.B. A/c.No. 45695 P.S. Purushothaman.
M8	26-12-94	Xerox copy of the account opening form of S.B. A/c. No. 50389 of P. Balasubramaniam.
M9	28-12-94	Xerox copy of the account opening form of S.B. A/c. No. 50786. M. Madanlal.
M10	Nil	Specimen signature card of S.B. A/c. 24548.
M11	04-08-93	Specimen signature card of S. B. A/c. No. 45695.
M12	26-12-94	Specimen signature cards of S. B. A/c. No.50389.
M13	28-12-94	Specimen signature cards of S. B. A/c. 50786.
M14	30-05-95	Xerox copy of the statement of A/c. No. 24548.
M15	05-04-95	Xerox copy of the statement of A/c. No. 45695.
M16	05-04-95	Xerox copy of the statement of A/c. No. 50389.
M17	05-04-95	Xerox copy of the statement of A/c. No. 50786.
M18	10-04-95	Xerox copy of the withdrawal slip for Rs. 13000 in S. B. A/c. 24548.
M19	06-04-95	Xerox copy of the withdrawal slip for Rs. 1500 in S. B. A/c.45695.

M20	07-04-95	Xerox copy of the withdrawal slip for Rs. 25000 in S. B. A/c. 50389.	M41	Nil	Xerox copy of the letter from Madras Main Branch to Manager Computer Planning & Devpt. Deptt.
M21	08-04-95	Xerox copy of the withdrawal slip for Rs. 30000 in S. B. A/c. 5038.	M42	11-11-95	Xerox copy of the letter from Manager, Madras Main Branch to Manager, Computer Policy & Plan Deptt.
M22	08-04-95	Xerox copy of the withdrawal slip for Rs. 30000 in S. B. A/c. No. 50786.	M43	20-11-95	Xerox copy of the letter from Enquiry Officer to Respondent/Bank enclosing enquiry report.
M23	21-02-95	Xerox copy of the withdrawal slip for Rs. 2 500 in S. B. A/c. 24548	M44	31-01-98	Xerox copy of the proceedings of Disciplinary Authority against the concerned workman.
M24	02-03-95	Xerox copy of the withdrawal slip for Rs. 5925 in S. B. A/c. 24548.	M45	21-02-98	Xerox copy of the minutes of personal hearing.
M25	22-03-95	Xerox copy of the withdrawal slip for Rs. 600 in S. B. A/c. 24548.	M46	14-03-98	Xerox copy of the final order issued by Respondent/Bank to concerned workman.
M26	31-03-95	Xerox copy of the withdrawal slip for Rs. 800 in S. B. A/c. 24548.	M47	24-06-98	Xerox copy of the appeal preferred by the concerned workman to Appellate Authority.
M27	04-04-95	Xerox copy of the withdrawal slip for Rs. 6000 in S. B. A/c. 24548	M48	01-08-98	Xerox copy of the order of Appellate Authority against concerned workman.
M28	10-03-95	Xerox copy of the withdrawal slip for Rs. 100 in S. B. A/c. 45695.			
M29	11-01-95	Xerox copy of the withdrawal slip for Rs. 200000 in S. B. A/c. 50389.			
M30	15-03-95	Xerox copy of the Cheque No. 425464 for Rs. 25000 of S. B. A/c. No. 50786.			
M31	15-03-95	Xerox copy of the Cheque No. 425465 for Rs. 5000 of S. B. A/c. No. 50786.			
M32	17-03-95	Xerox copy of the Cheque No. 425467 for Rs. 5000 of S. B. A/c. No. 50786.			
M33	06-09-89	Xerox copy of the order of appointment issued to concerned workman by Respondent/Bank			
M34	30-03-90	Xerox copy of the order of confirmation issued by Respondent/Bank.			
M35	04-04-95 to 07-02-96	Xerox copy of the ledger folio pertaining to S. B. A/c. No. 24548.			
M36	04-04-95 to 15-12-96	Xerox copy of the ledger folio pertaining to S. B. A/c. No. 45695.			
M37	07-04-95 to 04-03-96	Xerox copy of the ledger folio pertaining to S. B. A/c. No. 50359.			
M38	06-04-95 to 06-09-95	Xerox copy of the ledger folio pertaining to S. B. A/c. No. 50786.			
M39	11-08-95	Xerox copy of the letter from Madras Main Branch to Manager, EPD Sec. Karur.			
M40	08-05-95	Xerox copy of the letter from Madras Main Branch to Manager, EPD Sec. Karur.			

नई दिल्ली, 14 जनवरी, 2003

का.आ. 497.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक आफ बीकानेर एण्ड जयपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या सी.जी.आई.टी.-56/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-01-03 को प्राप्त हुआ था।

[सं. एल-12012/230/2001-आई.आर. (बी. 1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 14th January, 2003

S.O. 497.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (CGIT-56/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Bikaner & Jaipur and their workman, which was received by the Central Government on 13-01-2003.

[No. L-12012/230/2001-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, JAIPUR****Case No. CGIT 56/2001**

Reference No. L-12012/230/2001-IR(B-I)

Sh. Jagdish Prasad Saini,

S/o Sh. Gyarasilal Saini,

R/o Ward No. 4, Pushp Nagar,

Sri Madhopur, Distt. Sikar-332001.Applicant

Versus

1. Managing Director,

State Bank of Bikaner & Jaipur,

Tilak Marg, Jaipur-302001.

2. The Regional Manager,

State Bank of Bikaner & Jaipur,

Ganga Niwas Park, Bikaner-334001.

3. The Branch Manager,

State Bank of Bikaner & Jaipur,

Sri Madhopur, Sikar-332001.Non-applicants

PRESENT:

Presiding Officer: Sh. R.C. Sharma.

For the applicant: Sh. Ajay Gupta & Sh. Anoop
Agrawal

For the non-applicants: Sh. Rajendra Vaishya.

Date of Award: 24-12-2002.

AWARD

1. The Central Govt. has referred the following industrial dispute for adjudication under clause 'D' of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947 (for short, the Act) which runs as under:—

“Whether the action of the management of State Bank of Bikaner & Jaipur of not considering the application dated 24-10-90 of Shri Jagdish Prasad Saini S/o Sh. Gyarasilal Saini for recruitment of permanent post of subordinate staff as per the direction contained in the Hon'ble High Court of Rajasthan, Jaipur order dated 14-11-94 (Copy attached as Annexure) was justified? If not, what relief the workman is entitled and from what date?”

2. In pursuance of the reference, the workman Sh. Jagdish Prasad Saini has filed a statement of claim stating therein that he was appointed on temporary basis on 2-7-79 to the post of 4th Class employee in the State Bank of Bikaner & Jaipur, Sri Madhopur, Distt. Sikar, who worked continuously for 80 days till 11-12-79 and a certificate to this effect was issued in his favour. Thereafter, on several

times, with some artificial breaks he was appointed as 4th Class employee in Sri Madhopur. He was also appointed at Kalu Branch from 19-3-82 to 5-6-82 for 79 days. The non-applicant bank as per the direction of the Central Labour Ministry issued an advertisement on 20-10-90 whereby the applications from those persons who had worked for minimum 90 days in any of the branch offices of the non-applicant bank were invited. The applicant applied for the said post but no information was ever sent to him despite his several representations submitted to the non-applicant bank. Aggrieved by it, he filed a writ petition before the Hon'ble High Court at Jaipur Bench and the Hon'ble Court vide its judgment dated 14-11-94 directed the non-applicants that in case there is any vacancy and if the applicant applies for the same, the non-applicants are expected to consider his application along with the other applicants. The workman has alleged that pursuant to this judgment on 18-1-95, he requested the non-applicants that a number of posts are lying vacant in the bank for which the candidature of the applicant may be considered. But the non-applicants vide their letter dated 20-2-95 intimated him that there is no vacant post in the bank and on accrual of the vacancy, appointment will be given to him. The workman has further stated that a number of posts are lying vacant in the non-applicant bank, but the non-applicants are not considering him for the appointment to the said post and the action of the non-applicants is against the provisions of Sections 25-G and 25-H of the Act. He has prayed that his claim may be accepted and he may be appointed to the post of 4th Class w.e.f. 24-10-90 with full back wages and all other consequential benefits.

3. Contesting the claim, the non-applicants in their written statement have averred that the applicant has not completed 90 working days after 1-1-82 which is condition precedent of the circular dated 22-10-90 and has concealed the truth in his claim, that he is not eligible on any count for the appointment to the said post, that for providing an opportunity to the temporary employees who have worked for more than 90 days after 1-1-82, the non-applicant bank had issued an advertisement dated 21-10-90, that the workman has also applied for the same post but he was not found eligible for the appointment to the said post. The non-applicants have stressed upon that they have not violated the provisions under Sections 25-G and 25-H of the Act.

4. In the rejoinder, the workman has reiterated the facts as stated in the statement of claim and has made an averment that he had already worked for more than 90 days after 1-1-82.

5. On the pleadings of the parties, the following points for determination were framed:—

1. Whether the workman was eligible for the recruitment to the post of subordinate staff in the non-applicant bank as per his application

dated 24-10-90 and whether the management of non-applicant bank has considered the application dated 24-10-90 of the workman as per the direction of the Hon'ble High Court dated 14-11-94 in a justified manner?

2. Whether the claim of the workman is liable to be dismissed on account of delay?

3. Relief.

6. The workman has filed his affidavit and six documents in support of his claim. On behalf of the non-applicants, the counter-affidavit of Sh. Bhimsen Tomar, Manager, has been filed and as many as eleven documents have also been filed.

7. I have heard both the parties and have carefully gone through the record.

8. The Ld. representative for the workman has argued that the workman was initially appointed as 4th Class employee on temporary basis on 2-7-79, who worked on various occasions for more than 90 days and after the pronouncement of the judgment dated 14-11-97 by the Hon'ble High Court, he applied to the non-applicant bank, but his application was not considered in justified manner. He has, therefore, urged that the workman may be reinstated.

9. Arguing contra, the Ld. representative for the non-applicants submits that the workman had moved an application before the non-applicant bank on 24-10-90 but since he had not completed 90 days of service in the bank and was over-aged, his candidature was rejected on both these grounds. He has further contended that the claim is barred by limitation and that on this ground also, it is liable to be rejected.

10. I have carefully considered the rival contentions advanced by both the parties and have gone through the decisions referred to by the Ld. representative for the non-applicants. The point-wise discussion is as under :—

Point No. 1

11. The pertinent question arising here for consideration is whether after the direction dated 14-11-94 issued by the Hon'ble High Court vide its judgment, the workman had applied for the appointment to the said post before the non-applicant management and whether the non-applicant management has considered the application of the workman in a justified manner.

12. The observation made by the Hon'ble High Court in the judgment supra is reproduced herein below :—

“The petitioner has not mentioned that there is any vacancy of Class IV Employee with the State Bank of Bikaner & Jaipur. In case there is any vacancy and if the petitioner applies for the same, the respondents are expected to consider his application along with other applications.”

13. The workman in his evidence has disclosed that after rendering the judgment by the Hon'ble Court, he had moved an application Ex. 5 dated 14-11-94 before the non-applicant management which was not considered in a proper manner and it was replied by the non-applicant bank vide its letter Ex. 6 intimated him that presently there is no vacancy available with the bank. This fact is undisputed that the workman after passing the judgment by the Hon'ble High Court had applied for the said appointment before the non-applicant management. The non-applicant bank's letter Ex. 6 read out that in response to the letter dated 20-1-95 of the workman, he is intimated that since there is no vacancy in the subordinate cadre, his application cannot be considered. The contents of letters Ex. 6 and Ex. M-6 are the same, which were conveyed by the non-applicant bank on 22-2-95 to the workman that on account of no vacancy, his application cannot be considered. Similar is the letter Ex. M-8 dated 11-7-95 sent by the non-applicant management to the workman intimating him the same ground for not considering his application. It is also contended on behalf of the workman that he also issued a notice through his counsel to the non-applicant for considering his candidature for the appointment to the said post, which was replied to by the letter of the non-applicant management Ex. M-9. The reply to the notice says that though Sh. Jagdish Prasad Saini, the workman, is not covered under the circular issued by the bank, still for the ends of justice as and when vacancies may arise in the bank, his application will be considered along with other applications.

14. Though it appears to be a contradictory stand adopted by the non-applicant bank, since on the one hand, it is averred that the workman is not covered by the circular, but on the other hand, he was also assured that as and when the vacancies would accrue, his application will be considered along with the other applications. But to reach at a right conclusion, it is to be decided whether the workman was not eligible as per the circular Ex. M-2 issued by the non-applicant bank inviting the applications from the eligible candidates for consideration to the said appointment?

15. The bank had issued an advertisement Ex. M-12 on 20-10-90 inviting the applications from the eligible candidates for the said appointment. MW-1, Sh. Bhimsen in his cross-examination has admitted that the advertisement Ex. M-12 does not contain therein the prescribed age of the eligible candidates. However, it is pointed out on behalf of the non-applicant bank that the circular Ex. M-2 contains two pre-conditions for the eligibility, out of them one is the age-limit ranging from 18 to 24 years and the another condition enshrined at para 3 lays down the eligibility only of those temporary employees who had worked minimum for 90 days or more in temporary service after the cut-off date i.e. 1-1-82 in the subordinate cadre. It has been urged on behalf of the non-applicant bank that this circular was issued to the various offices.

16. Now, as per the terms of reference, it is to be considered whether the application dated 24-10-90 of Sh. Jagdish Prasad Saini for recruitment to the post of subordinate staff was reasonably considered by the non-applicant bank.

17. The non-applicant has submitted the application of the workman Ex. M-3 dated 24-10-90 whereby he had applied to the said post in pursuance of the advertisement in the daily "Rajasthan Patrika" dated 21-10-90. In his cross-examination, he has admitted that the application Ex. M-3 bears his signature from 'A-B' and the same application he had submitted before the non-applicant management along with the prescribed form for consideration of his candidature. So far as the first condition of working of more than 90 days in the subordinate staff is concerned, in his application Ex. M-3, the workman has stated that he has worked from 19-3-82 to 5-6-82 in the non-applicant establishment which, when reckoned, appears to be 79 days in total. The workman has relied upon the certificates Ex. 1 and Ex. 2 issued by the non-applicants in his favour, which are even admitted by the non-applicant bank. Ex. 1 is a certificate having the mention of the working period of the workman commencing from 9-7-79 to 11-12-79 in various parts and the period is calculated as 80 days in total. Since this period is not covered by the circular Ex. M-3, which is prior to the year 1982, therefore, Ex. 1 does not help the workman in any way. The relevant document is Ex. 2 which verifies that the workman has worked as 4th Class Employee from 19-3-82 to 5-6-82, in total 79 days. Even the workman in his cross-examination has clearly admitted that he had worked for 79 days in the year 1982. This makes it manifest that the workman had not fulfilled the first condition of working for 90 days or more in the non-applicant establishment after 1-1-82.

18. Now comes up the point of the age-limit for consideration. Suffice it to say that the workman has admitted in his cross-examination that on 19-3-82 his age ought to have been in between 18 to 24 years and has expressed his ignorance as to whether he had completed 24 years, 7 months and 19 days on 19-3-82. Prescribed form which the workman had submitted along with his application Ex. M-3 before the non-applicant management contains his date of birth as 30-7-57 and this fact has been admitted by the workman in his testimony. As per the calculation of his age on 19-3-82, it appears that the workman had attained the age of above 24 years. As such, the workman had failed to fulfill the second prescribed condition also for considering him for the said appointment.

19. The non-applicant bank by its letter Ex. M-4 dated 23-11-90 had conveyed to the workman that he was not found eligible for the appointment to the said post on account of his age and temporary working period. He was again intimated by the letter of the non-applicant bank Ex. M-5 dated 27-11-90 to this effect.

20. On the basis of the aforesaid analysis, it is well-established that the non-applicant bank had considered the application Ex. M-3 of the workman thoroughly and reasonably but he was not found eligible for the said appointment and accordingly, he was intimated after the scrutiny of his application. The workman has been miserably failed to prove that he could be appointed as per the employment pre-conditions of the non-applicant bank.

Point No. 2

21. The Id. representative for the workman has also raised an objection that the claim is barred by limitation on the ground that the application of the workman for the appointment was rejected in the year 1990, he agitated the matter before the Conciliation Officer in the year 2001 and subsequently moved before the Hon'ble High Court. In support of his contention, he has referred to (2001) 1 SCC 133; (2000) 2 SCC 455 & 2002 (3) SCT Rajasthan 985.

22. On behalf of the workman, this argument has been controverted.

23. A perusal of the statement of claim reveals that after the lapse of about eight years, the workman has raised the dispute before the Assistant Labour Commissioner (Central), Jaipur, requesting him to conduct the conciliation proceedings regarding non-consideration of his application dated 24-10-90 for recruitment as 4th Class Employee as per the direction of the Hon'ble High Court in its judgment dated 14-11-94. In the decision referred to by the Id. representative for the non-applicant bank reported in (2000) 2 SCC 455, after the expiry of seven long years, the workman had raised a dispute against his dismissal on the ground that two other employees who were dismissed in similar situation were reinstated. The Hon'ble Court has held that the reference of the said dispute at this stage was bad both on the grounds of delay as well as non-existence of an industrial dispute. The contention of the Id. representative for the non-applicants is strengthened by this decision of the Hon'ble Supreme Court and further by the judgments reported in (2001) 1 SCC 133 and 2002 (3) SCT Rajasthan 985. The workman has not rendered any reasonable explanation for raising the instant dispute after the expiry of a long period of eight years. On this ground too, he is not entitled to get the relief claimed.

24. For the foregoing reasons, the reference is answered in the negative and it is held that the claim of the workman does not deserve to be allowed. The award is passed accordingly.

25. Let a copy of the award be sent to the Central Government for publication under Section 17(1) of the Act.

R. C. SHARMA, Presiding Officer

नई दिल्ली, 14 जनवरी, 2003

का. आ. 498.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेत्रावती ग्रामीण बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ श्रम न्यायालय, बंगलौर के पंचाट (संदर्भ संख्या 94/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-1-2003 को प्राप्त हुआ था।

[सं. एल-12012/148/99-आई. आर. (बी.-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 14th January, 2003

S.O. 498.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (C.R. No. 94/99) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Netravati Grameena Bank and their workman, which was received by the Central Government on 13-01-2003.

[No. L-12012/148/99-IR (B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

"SHRAM SADAN"

III MAIN, III CROSS, II PHASE, TUMKUR ROAD,
YESHWANTHPUR, BANGALORE

Dated, the 3rd January, 2003

PRESENT

HON'BLE SHRI V. N. KULKARNI, B.COM, LLB

PRESIDING OFFICER

CGIT-CUM-LABOUR COURT,

BANGALORE

C.R. NO. 94/99

I PARTY

Shri Subbayya Marati,
C/o. Shri Govinda Marati,
Jenadi,
Yeljith Post,
Kundapur-576214

II PARTY

The Chairman,
Netravati Grameena Bank,
Head Office,
Karangalpady,
Bangalore-575003

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/148/99/IR(B-1) dated 29th July, 1999 for adjudication on the following schedule:

SCHEDULE

"Whether the action of the management of Netravati Grameena Bank, Mangalore in awarding a major punishment of dismissal to Shri Subbayya Marati is justified? If not, to what relief the said workman is entitled?"

2. The first party was working with the management. Enquiry was conducted against him for misconduct and he is dismissed from service and therefore Industrial Dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the first party in brief is as follows:

5. It is the case of the workman that he joined as Part-time Messenger cum Sweeper in the year 1986 with the Bank. He was confirmed in the year 1991. He was working honestly and sincerely. He comes under reserved category. Charge sheet was issued on 2-7-1993 alleging that the workman has committed misconduct alleging that the workman absconded with cash with an ulterior motive. The Domestic Enquiry is not correct and he has not committed any misconduct.

6. Regarding Domestic Enquiry number of allegations are made by the workman. The DE is not fair and proper. No full opportunity was given before passing the dismissal order. Report of the Enquiry Officer is not correct. He has not honestly. During enquiry charges are not proved. Workman for these reasons and for some other reasons has prayed to pass award in his favour.

7. Against this the case of the Management in brief is as follows :

8. The Claim Petition filed by the workman is time barred. The allegation that the first party was working honestly etc. is not correct. The workman was entrusted with certain amount of money to be deposited at Syndicate Bank, at Kollur and the said amount was kept in his remittance trunk/box. Challan was prepared and workman was advised to deposit the amount with Syndicate Bank, Kollur. The workman has not deposited the amount but he tried to knock the amount, which was entrusted to him. The enquiry held against the workman is correct. Management for these reasons and for some other reasons has prayed to reject the reference.

9. It is seen from the record that the management examined MW1, one Mr. S.L. Sreenath, Manager. MW1 has conducted enquiry against the workman.

10. It is seen from the records that throughout first party remained absent and has not cross examined MW1. For the best reasons known to the workman he remained absent.

11. This tribunal by its order dated 18th October 2002 has answered preliminary issue holding that the Domestic Enquiry is fair and proper. Thereafter the case was posted for arguments on merit. Again the first party remained absent.

12. I have heard the learned counsel appearing for the management. I have carefully perused the enquiry proceedings. I have gone through the finding of the Enquiry Officer.

13. Now that the Enquiry is held as fair and proper little discretion is left with this Tribunal to interfere with the punishment imposed by the Disciplinary Authority. I have considered the entire enquiry proceedings carefully. The Enquiry Officer has correctly appreciated and come to the right conclusion. There is nothing on record to show that the finding is perverse.

14. In view of these facts I am of the opinion that there are no good ground to invoke the provisions of Section 11A of the I.D. Act. Considering all this I proceed to pass the following Order :

ORDER

The reference is rejected.

(Dictated to PA transcribed by her corrected and signed by me on 3rd January 2003)

V.N. KULKARNI, Presiding Officer

नई दिल्ली, 15 जनवरी, 2003

का. आ. 499.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंटिग्रल कोच फैक्टरी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार लेबर कोर्ट चेन्नई के पंचाट (संदर्भ संख्या आई डी 2/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-1-2003 को प्राप्त हुआ था।

[सं. एल-41012/167/95-आई. आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 15th January, 2003

S.O. 499.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 2 of 1997) of the Central Government Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Integral Coach Factory and their workman, which was received by the Central Government on 14-01-2003.

[No. L-41012/167/95-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. LABOUR COURT, CHENNAI

Present: Thiru S.K. Douraiswami, M.A., B.L.,
Presiding Officer.

Friday, the 15th Day of November, 2002

Industrial Dispute No. 2 of 1997

BETWEEN

Thiru R. Krishnan,
Khalasi Helper,

105-C, Pillaiyar Koil St., T.V. Nagar,
Chennai 600040.

AND

The General Manager, Integral Coach Factory,
Chennai-600038.

AWARD

This industrial dispute has been referred to this court for adjudication of the dispute between the workman Thiru R. Krishnan and the management of Integral Coach Factory, Chennai by the Govt. of India, Ministry of Labour, by G.O. No. L. 41012/167/95-IR(B-I), dated 7-2-97, on the following issue :

“Whether the action of the management of General Manager, Integral Coach Factory, Chennai, in terminating the services of Shri R. Krishnan, Scavenger with effect from 28-4-84 after serving 19 years of service for chronic absentism due to illness is just, proper and legal? If not to what relief is the workman entitled to?”

2. The parties have filed their pleadings.

3. Today the dispute is taken up for enquiry. W.W.1 present. Respondent is called absent from 16-7-2002 onwards. Hence, the respondent is set exparte. Evidence of the petitioner is already on record. On perusal of the petition along with the deposition, claim is proved. In the result, an award is passed holding that the action of the management in terminating the services of Thiru R. Krishnan, Scavenger with effect from 28-4-84 is unjust, improper and illegal and that the petitioner is entitled to reinstatement in service with full back wages, continuity of service and all other attendant benefits. No costs.

Dated, Chennai, this the 15th day of November, 2002.

S.K. DOURAISWAMI, Presiding Officer

LIST OF WITNESSES EXAMINED

FOR THE WORKMAN:	FOR THE MANAGEMENT:
W.W.1-R. Krishnan.	-NONE-

LIST OF EXHIBITS MARKED

FOR THE WORKMAN:	FOR THE MANAGEMENT:
-NIL-	-NIL-

नई दिल्ली, 15 जनवरी, 2003

का. आ. 500.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ द्रावनकोर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण ईडूकी के पंचाट (संदर्भ संख्या आई डी 97/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-1-2003 को प्राप्त हुआ था।

[सं. एल-12012/170/99-आई. आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 15th January, 2003

S.O. 500.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 97 of 1999) of the Industrial Tribunal Idukki now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Travancore and their workman, which was received by the Central Government on 15-01-2003.

[No. L-12012/170/99-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE COURT OF THE INDUSTRIAL TRIBUNAL IDUKKI

(Dated, this the 15th day of November, 2002)

Present:

Shri. P.V. Abraham. B. Sc. L.L.B.,
Industrial Tribunal.

INDUSTRIAL DISPUTE NO. 97 OF 1999

BETWEEN

The Deputy General Manager,
State Bank of Travancore,
Zonal Office,
Collectorate P.O.,
Kottayam-686002.

....Management

AND

Shri. Saju Varghese,
Pulimootilparambil House,
Neelissery P.O.,
Kottayam-686041.

.....Workman

REPRESENTATIONS

1. Shri. Zachariah Kozhy B.Sc. B.L.,
Advocate, Kottayam. —For Management.
2. Shri. H.P. Shenoy and
Ashok B. Shenoy.
Advocates, Kochi-35. —For Workman.

AWARD

The Government of India, as per order No. L-12012/170/99/IR(B-I) dated 16-8-1999, referred this industrial dispute for adjudication originally to Industrial Tribunal, Kollam. As per order No. L-12012/170/99/IR. (B.I.) dated 2-11-1999, the Government of India transferred this industrial dispute to this Tribunal.

The issue referred for adjudication is the following:—

“Whether the action of the management of State Bank of Travancore in terminating the service of Shri Saju Varghese, Peon of Kottayam branch with effect from 26-12-1998 is justifiable? If not, to what relief the workman is entitled to?”.

The workman has contented that he was employed in the management bank since 1987 at their Kottayam main branch. The workman was employed in the canteen attached to the Kottayam main branch from 1987 and after from 1990 onwards he was employed as Peon in the said branch. Even though the workman was employed in a regular vacancy of peon and was doing regular and permanent nature of work, he was not given an appointment order. Ever since joining duty, the workman had been discharging duties diligently and honestly. He was continuously employed without any break or intervention under the management. Though the workman was employed against a permanent vacancy and all the duties of permanent peon were got done through him, he was not extended the privileges and benefits payable to permanent peon. The workman had requested the management several times to regularise his service as peon. But the management did not take any steps in that regard. While so, in October, 1998 the management had notified in the newspaper 151 vacancies of peon in the management bank and invited applications from outsiders for employment against those vacancies. There upon the workman as per lawyers notice dated 23-12-1998 sought for regularisation of his service as permanent peon against one of the notified vacancies. Without considering the workman's request in that regard, the management retrenched the service of the workman with effect from 26-12-1998 in violation of the provisions of law, all India Awards and bipartite settlement. According to the workman, he had 11 years of continuous service under the management and his termination of service is in violation of section 25-F of the industrial Disputes Act. The workman has also contented that his termination of service is against the provisions of Sasthri Award. He has further contented that his termination of service is in violation of Section 25-G and H of the Industrial Disputes Act. In the circumstances, the workman seeks to pass an award directing the management to reinstate him in service with all benefits.

The management has contented that recruitment of peons in regular vacancies are made by head office after inviting applications through newspaper notifications. Formerly appointments were made for the post of peons from the list supplied by employment exchanges. In the case of dying in harness, appointments compassionate grounds are made. No other mode for an appointment to the post of peon is available in the bank. The branch manager is not competent to make appointments. Considering that Saju Varghese was working as a bearer under a private contractor of the canteen attached to the Kottayam branch building, he was engaged by Kottayam main branch on a casual basis to do odd jobs and collie charges were paid for the specific work done. He was engaged purely as a casual labour and that too not continuously. Shri. Saju Varghese was never appointed at Kottayam main branch as a temporary or permanent peon. The Kottayam main branch had not entrusted to him any regular and permanent duties of a

peon. He was never in the service of the bank in any cadre. He had never been in the service of the bank and the question of regularising him did not arise. The workman was never appointed in the service of the bank and therefore, the question of retrenching him did not arise. The workman had no continuous service under the management bank and the management had not violated any of the provisions of the Industrial Disputes Act, Shastri Award and bi-partite settlement. In the circumstance, the management seeks to pass an award holding that the workman is not eligible for any relief.

The workman who was examined as WW1 has stated in his evidence that initially he was employed in the canteen attached to the management from 1987 to 1990 and afterwards he was employed as a peon in the Kottayam main branch of the management bank from 1990 to 1998 and he was denied employment from 26-12-1998. The workman has further stated in his evidence that his employment under the management was continuous and uninterrupted and his denial of employment was in violation of Section 25-F, 25-G and 25-H of the Industrial Disputes Act. However, the workman has not been able to produce any documents to show that his employment under the management was continuous and un-interrupted. As required by the workman, the management had produced the vouchers pertaining to the payments made to the workman. The Chief Manager (Accounts) employed under the management who was examined as MW1 has stated in his evidence that he had verified all the vouchers from 1994 to 1998 kept at the Kottayam main branch and all the vouchers pertaining to the payments made to the workman were produced before this Court which were marked as Exhibits M1 series to M5 series. He has further stated in his evidence that vouchers pertaining to the period prior to 1994 were not available in the Kottayam main branch. On a perusal of Exhibits M1 series to M5 series vouchers, it can be seen that the workman had not worked on 240 days in any of the years from 1994 to 1998. According to the management, the workman had been engaged only on casual basis for doing some odd works and he had been paid for the specific works done by him. He was never appointed in the bank on a regular or temporary basis. As there is no evidence to show that the workman had worked on 240 in a days continuous period of one year during the period from 1987 to 1998 his denial of employment cannot be regarded as in violation of Section 25-F of the Industrial Disputes Act. The workman is not entitled to claim the benefits of Sections 25-H and 25-G of the Industrial Disputes Act as he was not recruited and appointed after following the recruitment procedure adopted by the management bank. In the circumstance, I hold that the workman is not eligible for any relief.

In the result, an award passed holding that the workman is not eligible for any relief.

P.V. ABRAHAM, Industrial Tribunal

APPENDIX

Witness examined on the side of the management :

- MW1 : Shri P.U.Abdul Aziz, Chief Manager (Accounts)
State Bank of Travancore, Kottayam Branch.
MW2 : Shri Padmanabhan K., Chief Manager (Accounts)
State Bank of Travancore, Kannoor Branch.

Witness examined on the side of the workman :—

- WW1 : Shri Saju Varghese, the concerned workman.

Documents marked on the side of the management :—

- Exhibit M1 series (9 Sheets) : Vouchers showing the amount paid to the workman for watering plants for the period from 30-7-1994 to 30-11-1997.
Exhibit M2 Series (8 Sheets) : Vouchers showing the payment to the workman for cleaning for the period from 30-11-1994 to 31-3-1997.
Exhibit M3 Series (9 Sheets) : Vouchers showing the payments made to the workman for cleaning TCL extension counter for the period from 30-7-1994 to 31-7-1996.
Exhibit M4 Series (8 Sheets) : Vouchers showing the payments made to the workman for affixing clearing seal and clearing house arrangements.
Exhibit M5 Series (11 sheets) : Vouchers showing the payment of upkeep of old vouchers and books.
Exhibit M6 Series (15 sheets): Photostat copies of the relevant pages of the charges register pertaining to the payments made to Shri Saju Varghese for the period from April, 1994 to June, 1997.
Exhibit M7 Statement dated 31-1-2002 filed by the managements.
Exhibit M8 Series (9 registers): Charges register for the period from 1-2-1994 to 23-11-1998.
Exhibit M9 Photostat copy of the staff circular dated 10-10-1990 issued by the General Manager (operations) of the management.

Documents marked on the side of the workman :—

- Exhibit W1: Copy of the letter dated 5-1-1998 from the workman to the management.
Exhibit W2: Lawyers notice dated 23-12-1998 issued by Shri. K.R. Premachandran, Advocate, to the management.
Exhibit W3: Photostat copy of the application for the post of peon dated 29-10-1998 submitted by the workman to the management.
Exhibit W4: Photostat copy of the letter dated 29-10-1998 from the workman to the recruitment cell, State Bank of Travancore, Regional Office, Kottayam.

Exhibit W5: Memo dated 27-4-1999 from the management to the workman.

Exhibit W6: Copy of the letter dated 20-3-1999 submitted by the management to the Asstt. Labour Commissioner (Central), Thiruvananthapuram.

नई दिल्ली, 15 जनवरी, 2003

का. आ. 501.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन.ई.पी.सी.एयर लाईंस के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 550/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-1-2003 को प्राप्त हुआ था।

[सं. एल-11012/1/98-आई. आर. (सी.-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 15th January, 2003

S.O. 501.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 550/2001) of the Central Government Industrial Tribunal, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of NEPC Airlines and their workman, which was received by the Central Government on 10-01-2003.

[No. L-11012/1/98-IR (C-1)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 29th November, 2002

PRESENT:

K. KARTHIKEYAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 550/2001

(Tamil Nadu State Industrial Tribunal I.D. No. 157/98)

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between NEPC Airlines Employees Union and management of NEPC Airlines]

BETWEEN

The General Secretary : I Party/Claimant
NEPC Airlines Employees
Union, Chennai.

AND

The Chairman & Managing : II Party Management
Director,
NEPC Airlines, Chennai.

APPEARANCE:

For the Claimant : Mr. P.S. Seetharaman
Advocate

For the Management : M/s. S. R. Rajagopal, K. Vasu
Venket, S. R. Raghunathan,
Advocates.

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No. L-11012/1/98-IR(C-1) dated 07-12-98.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, Chennai, where the same was taken on file as I.D. No. 157/98. When the matter was pending enquiry in that Tribunal, Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu State Industrial Tribunal to this Tribunal for adjudication. On receipt of records from that Tamil Nadu State Industrial Tribunal, this case has been taken on file as I.D. No. 550/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 12-03-2001 and to prosecute this case further. Accordingly, learned counsel on either side have appeared and prosecuted this case further.

Upon perusing the Claim Statement, Counter Statement, the other material papers on record, after hearing the arguments advanced by the learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following:—

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Government for adjudication by this Tribunal is as follows:—

“Whether the action of the management of NEPC Airlines, Chennai, in stopping the payment/reimbursement of medical expenses to their employees and their families and privilege leave encashment is justified? If not, to what relief the concerned workmen are entitled?”

2. The averments in the Claim Statement filed by the I Party/Claimant NEPC Employees Union, Chennai (hereinafter refers to as Petitioner) are briefly as follows:—

The employees of the NEPC Airlines which is a division of NEPC MICON India Ltd. originally known as NEPC Micon Ltd. formed a Union by name NEPC Employees Union. The Petitioner Union is affiliated to Chennai-Chengai Anna General Employees Union which is registered under the Trade Unions Act, 1926. The Petitioner Union several

times through their letters attempted to meet the management for mutual discussion relating to their grievances. Even the Chairman of the Respondent/Management was addressed relating to injustice done to the employees and various atrocities of the management against the employees. The Respondent/Management without coming to table for discussion adopted anti-labour activities like ad-hoc termination /lay off, non-payment of salaries etc. The Respondent/Management never bothered to intervene in the said anti-labour activities. Many members of the Petitioner Union who are pilots have been terminated arbitrarily without any reason or any notice or any compensation on various dates. All these illegal activities or termination were done without obtaining Govt.'s permission. The Respondent laid off employees arbitrarily without giving any reason during the said lay off period. The wages for the employees have been delayed ever since April, 1996 till September, 1996. The members of the Union met the chairman of the Respondent Mr. Ravi Prakash Khemka, who assured that the pending salaries would be paid and updated by the end of October, 1996. But, unfortunately the situation became worse. The salary cheques were bounced and in some cases stop payment instructions were issued to the bank by Respondent/Management. The salaries were not paid from January, 1997 and for certain other persons from February, 1997. The Respondent/Management unilaterally decided and further issued notice to the pilots during the month of March/April, 1997 that the pending salaries would be adjusted against their training cost, which is violation of the agreement executed between the employees and the management. The Respondent/Management failed and neglected to pay the medical reimbursement claim of the employees and their families for the year 1996-97. Against the established law and procedure the Respondent/Management failed and neglected to provide encashment of earned leave the employees concerned were put to hardship. The said activities of the Respondent/Management is purely unlawful, illegal and against the provisions of the industrial Disputes Act and the agreement between the employees and the management. The Respondent gave vague reply without committing themselves to the illegal activities. The action of the Respondent in stopping payment of encashment of privilege leave and non-payment of medical reimbursement of claim for the employees and their family are illegal and against the provisions of Industrial Disputes Act, 1947. For these reasons, it is prayed that this Hon'ble Tribunal may be pleased to hold that the action of the Respondent/Management in not settling the medical reimbursement claim of the Petitioner Union for 1996/1997 and non-payment of encashment of privilege leave as violation of company rules illegal arbitrary and consequently direct the Respondent to provide encashment of privilege leave and settlement of medical reimbursement claim for the members of the Petitioner Union as per the annexure enclosed and to award cost.

3. The averments in the Counter Statement filed by the II Party/Management NEPC Airlines, Chennai (hereinafter refers to as Respondent) are briefly as follows:—

The Respondent denies all the allegations contained in the Claim Statement as false say those that are specifically admitted hereunder. The NEPC Airlines is not a juridical person. Hence, this petition is not maintainable. Further, this Hon'ble Tribunal has no jurisdiction to entertain this petition. The petition is not maintainable as the Petitioner Union is not a registered union. The petition does not disclose the members on whose behalf the Petitioner Union is seeking relief before this Tribunal. The Respondent has grounded its airlines operation in the year 1997 itself. Hence, the petition filed now is not maintainable. It appears from the averments of the Petitioner that the Petitioner Union consists of the erstwhile pilots of the Respondent company. At no stretch of imagination the pilots be construed as workmen competent to seek relief and redressal before this Tribunal. Various pilots have sought independent relief before various Courts in India. Hence, the Petitioner Union cannot seek redressal for pilots. Hence the petition is not maintainable. The Petitioner Union has not disclosed the facts which necessary to constitute the cause of action but, the petition contains only sweeping and baseless allegations which would not give rise to cause of action to maintain this petition. The Respondent denies the allegation that the Respondent had committed various atrocities against the employees. There was a serious crisis in the airlines industry carried on by the Respondent. The aircraft belonging to the Respondent were seized by various authorities for alleged non-payment of statutory dues. The Respondent was forced to ground their operations. The closure of airlines business of the Respondent was due to operation of law and other reasons beyond its control. The Respondent was constrained to retrench or terminate its employees due to sudden and unforeseen circumstances, due to various acts on the part of statutory authorities. The Respondent had incurred huge expenditure to train the pilots and the same was agreed to be recoverable from out the salaries of the said pilots. The agreement executed by the pilots contain arbitration clauses. The Respondent also has invoked arbitration in respect of various pilots and the same are pending for adjudication. The pilots have independently entered into agreement with the Respondent company and are governed by the clauses contained in the said agreement. The Petitioner Union is not entitled to the relief claim. The petition is nothing but a gross abuse of process of law and vexatious. Therefore, the petition is liable to be dismissed. Hence, it is prayed that this Hon'ble Tribunal may be pleased to dismiss this petition with exemplary cost.

4. When the matter was taken up for enquiry, no one has been examined as a witness on either side and no document has been marked as an exhibit on either side.

The arguments advanced by learned counsel on either side were heard.

5. The Point for my consideration is—

“Whether the action of the management of NEPC airlines, Chennai, in stopping the payment/ reimbursement of medical expenses to their employees and their families and privilege leave encashment is justified? If not, to what relief the concerned workmen are entitled?”

Point :—

A specific stand has been taken by the Respondent in their Counter Statement that the Petitioner Union has not been authorised by the concerned employees to raise this industrial disputes collectively espousing their cause to seek relief and redressal before this Hon'ble Tribunal and hence the Petitioner Union has no locus standi to raise this industrial dispute on behalf of those employees as a collective dispute. Further, it is alleged in the Counter Statement that in the agreements executed by the trainee pilots, it contains an arbitration clause and in respect of various pilots the arbitration proceedings are pending adjudication and in that event, the present petition filed by the Union for the pilots on whose behalf the petition is alleged to have been filed is not maintainable and the Petitioner Union is put to strict proof of the same. The learned counsel for the Respondent/Management also has put forth an argument to that effect. To satisfy all these requirements, the Petitioner Union has not come forward to prove that it has got the competence and authority to raise this dispute on behalf of the aggrieved pilots. No documentary or oral evidence has been let in on the side of the I Party/Union to disprove the contention of the II Party/Management on this aspect. If really, the I Party/Union has got one such authorisation or competency to raise this dispute in a representative capacity for those aggrieved persons, the Petitioner Union would not have failed to let in oral or documentary evidence to prove that they have got authorisation and competency to raise this dispute. So, in the absence of one such evidence on the side of the Petitioner Union, it can be held that the Petitioner Union has no locus standi to raise this dispute on behalf of the persons. Further, the contention of the Respondent/Management that the petition is also not maintainable as the Petitioner Union is not a Registered Union. This has not been denied or disproved by producing acceptable legal evidence by the Petitioner. It is also contended by the Respondent Management in their Counter Statement that various pilots have sought independent relief before various Courts in India and the Petitioner has not disclosed the facts necessary to constitute a cause of action for filing this petition as a collective dispute on behalf of the alleged aggrieved pilots employed by the Respondent/Management. This has not been denied by the Petitioner Union. Under such circumstances, the argument advanced

by the learned counsel for the Respondent/Management on this aspect can be accepted as correct and it can be held that the present petition filed by the Petitioner Union in a representative capacity raised as a collective dispute for claiming the relief of providing facility for encashment of privilege leave and settlement of medical reimbursement claim of the employees under the Respondent/Management cannot be accepted as valid dispute raised by the person has got authority and competency to do the same.

6. For the averment in the Claim Statement by the Petitioner Union that the act of the Respondent/Management against the pilots employed by them for the aircraft under NEPC Airlines without adopting the procedures and compliance of provisions of law under Industrial Disputes Act, 1947 in retrenching them from service is unlawful and violation of provisions of that Act. The Petitioner Union has not let in any acceptable evidence for their averment that the said persons have not been given any retrenchment compensation also has not been proved by sufficient acceptable evidence by the Petitioner. Further the averment of the Petitioner Union in the Claim Statement that the employees have been illegally laid off/terminated arbitrarily without assigning any reason also has not been proved by any acceptable evidence, when especially the management has objected to the same in the Counter Statement, the reason for lay off under situation under which they were forced to ground their aircraft. The averments mentioned in the Counter Statement of the Respondent/Management as reasons for grounding their aircraft as reasons beyond their control has not been disputed as false by the Petitioner union. This dispute has been raised by the Petitioner Union claiming the relief for providing facilities for encashment of privilege leave and settlement of medical reimbursement claim to the employees by the Respondent/Management has not substantiated by any documentary or oral evidence through the concerned employees. It is not the contention of the Petitioner Union that the claim made by the concerned employees to that effect in respect of encashment of the privilege leave and also for settlement of medical reimbursement claim has been denied by the Respondent/Management either in the claim petition or by way of any oral or documentary evidence, the Petitioner Union has not given any particulars for the claim made on this aspect on behalf of the concerned employees. For claiming this relief on behalf of the concerned person, the Petitioner Union has not let in any evidence to prove that their claim is just and proper. From the materials available in this case and the plea raised by the either parties in this dispute, it is seen that the lay off /termination of services of the pilots concerned as an action taken by the Respondent/Management against them cannot be considered as illegal, arbitrary or done in violation of the provisions of Industrial Disputes Act. In the absence of the proof of the claim made by the Petitioner Union with satisfactory evidence, it can be concluded that the claim made by the Petitioner

Union under this petition as a collective dispute for the concerned employee under the Respondent/Management cannot be granted.

7. Under such circumstances, it can be held that the relief prayed for by the Petitioner Union on behalf of the concerned employees for the payment of reimbursement of medical expenses for the concerned employees and their families and encashment of privilege leave cannot be granted, since it is not established with acceptable evidence by the Petitioner Union that the Respondent/Management has taken an arbitrary action in stopping that facilities against the employees concerned. Hence, the concerned employees who have not been specifically mentioned by the Petitioner Union in this dispute are not entitled for such relief. Thus, the point is answered accordingly.

8. In the result, an Award is passed holding that the relief prayed for by the I Party/Union cannot be granted. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 29th November, 2002).

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :— None
On either side

Documents Exhibited :— Nil
on either side

नई दिल्ली, 15 जनवरी, 2003

का. आ. 502.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एनईपीसी एअर लाइंस के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 549/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-1-2003 को प्राप्त हुआ था।

[सं. एल-11012/3/98-आई. आर. (सी.-1)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 15th January, 2003

S.O. 502.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 549/2001) of the Central Government Industrial Tribunal Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of NEPC Airlines and their workman, which was received by the Central Government on 10-01-2003.

[No. L-11012/3/98-IR(C-I)]
S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 29th November, 2002

Present : K. KARTHIKEYAN,
Presiding Officer

INDUSTRIAL DISPUTE NO. 549/2001

(Tamil Nadu State Industrial Tribunal I.D.No. 155/98)

[In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between Sri Kulwant Singh and management of NEPC Airlines]

BETWEEN

Sri Kulwant Singh : I Party/Workman
AND

The Chairman & Managing Director,
NEPC Airlines : II Party/Management.

Appearance:

For the Workman : M/s. P. S. Seetharaman and
Advocate

For the Management : M/s.S.R.Rajagopal, K. Vasu
Venket, S.R.Raghubathan,
Advocates.

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No.L-11012/3/98-IR (C-I) dated 17.11.98.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, Chennai, where the same was taken on file as I.D. No. 155/98. When the matter was pending enquiry in that Tribunal, Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu State Industrial Tribunal to this Tribunal for adjudication. On receipt of records from that Tamil Nadu State Industrial Tribunal, this case has been taken on file as I.D. No.549/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 12-3-2001 and to prosecute this case further. Accordingly, learned counsel on either side have appeared and prosecuted this case further.

Upon perusing the Claim Statement, Counter Statement, the additional Counter Statement, the documentary evidence let in on the side of the I Party/

Workman alone, the other material papers on record, after hearing the arguments advanced by the learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

“Whether the action of the management of NEPC Airlines, Chennai, in retrenching the services of Sri Kulwant Singh w.e.f. 15-5-1997 is legal and justified? If not what are his legal dues and to what other relief the workman is entitled?”

2. The averments in the Claim Statement filed by the I Party/Claimant Sri Kulwant Singh (hereinafter refers to as Petitioner) are briefly as follows :—

The Petitioner joined the services of the Respondent/Management on 31-1-1995 as an aircraft technician on consolidated salary of Rs. 3500 per month. By its letter dated 4-10-1995, the management confirmed the services of the Petitioner w.e.f. 1-9-95. The Respondent was deducting the statutory dues from the Petitioner's salary towards provident fund and ESI from January, 1997 onwards. When the Petitioner has completed probation, but the Respondent failed to pay any benefits out of ESI. The Respondent re-designated the Petitioner as Technician in Gr. V. in Engineering by letter dated 20-4-96 and his emoluments was revised to Rs. 4,733 p.m. In that letter the Petitioner was also informed that he was eligible for leave travel assistance of Rs. 1620 in a year. The management commences operation in April, 1994 and by 1996 there was about 350 technicians working in Chennai, Coimbatore, Bombay and Calcutta. In Chennai alone, there were about 200 technicians in the year 1996. The Respondent have a total number of about 400 employees in which Engineering Department and commercial department. The total number of employees are approximately 2000. The Petitioner and other technicians were required to work normally for 10 to 15 hours a day and at times, they retain even for 24 hours. There are not specified shifts or timings or weekly off. Holidays are not specified. Bonus was paid in the year 1995 to all others but not for the Petitioner. The promise to pay bonus was not kept up the Respondent. While so, all of a sudden, the management stated terminating the services of its personnel illegally without obtaining permission from the Govt. Labour Authority, and without following the seniority. It is not as if the situation warranted retrenchment of the employees, since the Respondent/Management was also recruiting persons

for the same post. By a letter dated 15-5-97 management has retrenched the Petitioner with immediate effect and offered compensation amounting to Rs. 13,220 alleged to be the dues liable to be paid to the Petitioner. The Petitioner has not accepted the said compensation as it is legally sustainable. The retrenchment is illegal, unjustified and arbitrary. The Respondent/Management has not followed any procedure as provided under Industrial Disputes Act, 1947 for retrenching its employees. The termination of the services of the Petitioner is illegal, since no permission has been obtained from the Govt. Labour Authorities to retrench the employees. The management has retained persons who are juniors to the Petitioner and has terminated the services of the Petitioner. Hence, the termination is illegal and arbitrary. The reasons given by the Respondent/Management for retrenchment namely flight schedules having been permanently cancelled due to non-availability of aircrafts at Chennai is devoid of merits and false. The management has not followed any of the labour welfare legislations. The management has not granted promised facilities leave travel assistance, ESI benefits etc. to its employees. Therefore, it is prayed that this Hon'ble Tribunal may be pleased to quash the order of retrenchment of the Petitioner by the Respondent as illegal and unlawful and consequently direct the Respondent to compensate the Petitioner for monetary loss including salary due from 1-5-97 to 15-5-97 along with back wages, other attendant and service benefits, which comes to Rs. 2,74,584.50.

3. The averments in the Counter Statement filed by the II Party/Management NEPC Airlines (hereinafter refers to as Respondent) are briefly as follows :—

The petition is not maintainable for the reason that a similar petition seeking similar relief has been filed before this Hon'ble Tribunal by the General Secretary, NEPC Employees Union and the said petition is nothing but abuse of process of this Court. The allegations contained in the Claim Statement are false say those that are specifically admitted herein. The petition is not maintainable as this Hon'ble Tribunal does not have jurisdiction to entertain the same. The allegations in the Claim Statement that the Petitioner and other technicians were required to work 10 to 15 hours a day and at times all the 24 hours a day are false to the knowledge of the Petitioner and frivolous. Such a false allegation has been raised by the Petitioner for the purpose of this case to prejudice the Hon'ble Court. The Respondent had enough number of Engineers and Technicians and there was no need or necessity for the Respondent to make the Petitioner work for

24 hours in a day. The employment of the Petitioner was strictly in accordance with the employment conditions and as per the labour laws of the land. No promise whatsoever, was made to the Petitioner with regard to bonus for the year 1996. The Respondent had carried on its business as per law and had adhered to all the welfare measures. The petition is not maintainable for the reason that Respondent was forced to ground its airline operations in the year 1997 itself, which the Petitioner is well aware of and the Respondent is not carrying on business of air taxi operation. There is a serious crisis in the airlines industry carried on by the Respondent. The aircraft belonging to the Respondent was seized by various authorities for alleged non-payment of statutory dues. The Respondent also denied supply of fuel which also forced the Respondent to ground its operations. The closure of airlines business of the Respondent was due to operation of law and other reasons beyond their control. The Respondent was forced and compelled to retrench its employees due to sudden unforeseen act by the statutory authorities. The Respondent has not recruited any person for the same post after the retrenchment of the Petitioner. The Respondent made earnest attempts to revive its airlines division but could not succeed in doing so. The Respondent has completely grounded and closed its operation and is not carrying on commercial operation. Sufficient compensation was paid to the Petitioner, when he was retrenched from service. It is incorrect to say that the Petitioners had not accepted the compensation. In fact they accepted the compensation without any whisper whatsoever. The retrenchment of the Petitioner was not a wilful act of the Respondent but an act warranted by situation beyond the control of the Respondent. The retrenchment of the Petitioner as well as other employees is legal and justified and not arbitrary. The Respondent amicably settled the entire issue by paying sufficient compensation to the retrenched employees though the retrenchment was not a wilful action of the Respondent. No person junior than the Petitioner was employed. Now there are only ten employees working with the Respondent in the airlines division, out of which seven are in-charge of office administration and the remaining are in-charge of the maintenance of its aircraft which had been grounded and are not in operation. The flight schedules have been permanently cancelled by the Respondent due to non-operation. Since the Petitioner has been retrenched, there is no question

of paying leave travel assistance. The ESI benefits have been given to the Petitioner and any claim by the Petitioner can be only before ESI corporation. Therefore, it is prayed that this Hon'ble Tribunal may be pleased to dismiss the claim of the Petitioner with exemplary cost.

4. The Respondent has filed an additional Counter Statement and the averments in the same are as follows :—

The Petitioner cannot be employed today for the reasons stated earlier. He is not entitled for any reinstatement. It is not open for the Petitioner to claim the amounts in various heads as mentioned in the annexure to the Counter Statement. The claim made is beyond the scope of reference and hence, the same may be rejected.

5. When the matter was taken up for enquiry, no one has been examined as a witness on either side. On the side of the Petitioner 4 documents have been marked by consent as Ex. W1 to W4. No document has been marked on the side of the II Party/Management. The arguments advanced by learned counsel on either side were heard.

6. The Point for my consideration is :—

"Whether the action of the management of NEPC Airlines, Chennai in retrenching the services of Sri Kulwant Singh w.e.f. 15-05-1997 is legal and justified? If not what are his legal dues and to what other relief the workman is entitled?"

Point :—

It is admitted that the Petitioner was appointed as Aircraft technician for the consolidated salary of Rs. 3500/- p.m. The order of appointment dated 21-1-1995 issued by the Respondent/Management Executive Director to the Petitioner is Ex. W1. Ex. W2 is the order dated 4-10-95 issued by the Respondent/Management to the Petitioner on his satisfactory completion of probation period and for confirmation of his service, subject to the conditions mentioned therein. Ex. W3 is the letter dated 20-4-96 issued to the Petitioner by the Respondent/Management for re-designating him as technician in Gr. V in Engineering in the revised scale of pay. Ex. W4 is the letter dated 15-5-97 issued by the Respondent/Management informing the Petitioner stating that his services had been retrenched and he is eligible for the retrenchment compensation mentioned in detailed in that letter. It is stated in that letter itself by the Respondent/Management that as the Petitioner was aware of the fact that most of the Respondent's flight schedules have been

permanently cancelled due to non-availability of aircrafts at Chennai and as a result, the company has no other alternative but to retrench his services which is considered as surplus. All these documents filed by the Petitioner have not been disputed. From Ex. W4 it is seen that the Respondent/Management has given sufficient reasons for retrenching the services of the Petitioner. It is not the contention of the Petitioner that it is not true and only for the purpose of retrenching him from service, the Respondent/Management has given false reasons. So the allegation of the Petitioner in his Claim Statement that the Respondent/Management all of a sudden terminated his services which is illegal is incorrect. Though he has alleged in the Claim Statement the Petitioner has not come forward to prove his plea that the situation was not warranted to retrench the employees by the Respondent/Management and the management was recruiting persons for the same post. So under the given circumstances, it cannot be said that the retrenchment is illegal, unjustified and arbitrary. The Petitioner himself has admitted in his Claim Statement that he was offered retrenchment compensation by a letter dated 15-05-97. The same has been filed by him as Ex. W4. The offered retrenchment compensation has been accepted by the Petitioner without any objection, as it is pleaded by the Respondent in their Counter Statement, which is not denied by the Petitioner. So, under such circumstances, it cannot be said that retrenchment is illegal, unjustified or arbitrary action of the II Party/Management. For his other allegations in the Claim Statement, the Petitioner has not let in any acceptable oral or documentary evidence. So his allegations in the Claim Statement that the promised facilities to him by the Respondent/Management like leave travel assistance and ESI benefits have been denied cannot be accepted as correct. From the facts available in this case, it is seen that the Respondent/Management was forced to retrench the services of the Petitioner for the reasons that they have got to ground the aircrafts for the reasons beyond their control. It is not disputed that the Respondent/Management had to ground their aircrafts for the reasons they have given in the Counter Statement as the aircraft belonging to Respondent was seized by various authorities for alleged non-payment of statutory dues and denial of supply of fuel and due to operation of law and other reasons beyond their control. All these reasons given by the Respondent/Management as their inability to carry out the

operations of airlines business has not been disproved by acceptable evidence by the Petitioner/Claimant as false. So, under such circumstances, the services of the Petitioner in the Respondent/Management was retrenched because of the stoppage of aircraft service business by the Respondent/Management and thereby there was no scope for further employment of the Petitioner under the Respondent/Management. The documentary evidence filed by the Petitioner goes to show while the Petitioner was kept in service of the Respondent/Management he was treated with proper welfare facilities as an employee under the Respondent/Management and he has also been given retrenchment compensation when he was retrenched from service by the Respondent/Management, which is in compliance with the provisions of Industrial Law. Under such circumstances, it cannot be said that the action of the Respondent/Management in terminating the services of the Petitioner Sri Kulwant Singh w.e.f. 15-5-1997 as illegal or unjustified. Hence, the concerned workman is not entitled to any relief he prayed for in the Claim Statement. Thus, the point is answered accordingly.

7. In the result, an Award is passed holding that the concerned workman Sri Kulwant Singh is not entitled for any relief. No cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 29th November, 2002.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :—

On either side : None

Documents Exhibited :—

For the I Party/Workman :—

Ex. No.	Date	Description
W1	21-01-95	Appointment letter of the Petitioner issued by the Respondent/Management.
W2	04-10-95	Terms and conditions of the Respondent NEPC Airlines Ltd. given to the Petitioner.
W3	20-04-96	Order of promotion issued to the Petitioner.
W4	15-05-97	Order of retrenchment issued to the Petitioner by the Respondent/Management.

For the II Party/Management : Nil

नई दिल्ली, 15 जनवरी, 2003

का. आ. 503.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन. ई. पी. सी. एअरलाईंस के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 547/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-01-03 को प्राप्त हुआ था।

[सं. एल-11012/4/98-आई. आर. (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 15th January, 2003

S.O. 503.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 547/2001) of the Central Government Industrial Tribunal Chennai now as shown in the annexure in the Industrial Dispute between the employers in relation to the management of NEPC Airlines and their workman, which was received by the Central Government on 10-01-2003.

[No. L-11012/4/98-IR(C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 29th November, 2002

Present: K. KARTHIKEYAN,

Presiding Officer

INDUSTRIAL DISPUTE NO. 547/2001

(Tamil Nadu State Industrial Tribunal I.D. No. 153/98)

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between Sri A. Shanmugasundaram and management of NEPC Airlines)

BETWEEN

Sir A. Shanmugasundaram 1 Party/Workman

AND

The Chairman & Managing Director,

NEPC Airlines 11 Party/Management

APPEARANCE:

For The Workman : M/s. P.S. Seetharaman & Advocate

For the Management : M/s. S.R. Rajagopal, K. Vasu Venket, S.R. Raghunathan, Advocate

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No. L-11012/4/98-IR (C-I) dated 07-12-98.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, Chennai, where the same was taken on file as I.D. No. 153/98. When the matter was pending enquiry in that Tribunal Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu State Industrial Tribunal to this Tribunal for adjudication. On receipt of records from that Tamil Nadu State Industrial Tribunal, this case has been taken on file as I.D. No. 547/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 12-03-2001 and to prosecute this case further. Accordingly, learned counsel on either side have appeared and prosecuted this case further.

Upon perusing the Claim Statement, Counter Statement, the documentary evidence let in on the side of the 1 Party/Workman alone, the other material papers on record, after hearing the arguments advanced by the learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following:—

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows:—

“Whether the action of the management of NEPC Airlines in retrenching the services of Sri A. Shanmugasundaram w.e.f. 15-05-1997 is legal and justified? If not what are his legal dues and to what other relief the workman is entitled?”

2. The averments in the Claim Statement filed by the 1 Party/Claimant Sri A. Shanmugasundaram (hereinafter refers to as Petitioner) are briefly as follows:—

The Petitioner joined the services of the Respondent/Management on 12-01-1995 as an aircraft technician on consolidated salary of Rs. 2500/- per month. By its letter dated 4-10-1995, the management confirmed the services of the Petitioner w.e.f. 01-9-95. The Respondent was deducting the statutory dues from the Petitioner's salary towards provident fund and ES1 from January, 1995 onwards, but the Respondent failed to pay any benefits out of ES1. The Respondent redesignated the Petitioner as Technician in Gr.VI in Engineering and paid him revised emoluments amounting to Rs.3,650/- p.m. The Petitioner was also informed that he was eligible for Leave Travel Assistance of Rs.1740/- in a year. The management commences operation in April,

1994 and by 1996 there were about 350 technicians working in Chennai, Coimbatore, Bombay and Calcutta. In Chennai alone, there were about 200 technicians in the year 1996. The Respondent have a total number of about 400 employees in which Engineering Department alone. There were also other departments besides a Head Office namely Operations Department and Commercial Department. The total number of employees are approximately 2000. The Petitioner and other technicians are required to work normally for 10 to 15 hours a day and at times, they retain even for 24 hours. There are not specified shifts or timings or weekly off. Holidays are not specified. Bonus was paid in the year 1995 for all others but not for the Petitioner. While so, all of a sudden, the management stated terminating the services of its personnel illegally without obtaining permission from the Govt. Labour Authority, and without following the seniority. It is not as if the situation warranted retrenchment of the employees, since the Respondent/Management was also recruiting persons for the same post. By a letter dated 15-05-97 management has retrenched the Petitioner with immediate effect and offered compensation amounting to Rs. 10,345/- alleged to be the dues liable to be paid to the Petitioner. The Petitioner has not accepted the said compensation since it is contra to the law. The retrenchment is illegal, unjustified and arbitrary. The Respondent/Management has not followed any procedure for retrenching its employees. The termination of the services of the Petitioner is illegal, since no permission has been obtained from the Govt. Labour Authorities to retrench the employees. The management has retained persons who are juniors to the Petitioner and has terminated the services of the Petitioner. Hence, the termination is illegal and arbitrary. The reasons given by the Respondent/Management for retrenchment that flight schedules having been permanently cancelled due to non-availability of aircrafts at Chennai is devoid of merits, since the management has been recruiting employees for its Chennai office. The management has not followed any of the labour welfare legislations. The management has not granted promised facilities Leave Travel Assistance, ESI etc. to its employees. Therefore, it is prayed that this Hon'ble Tribunal may be pleased to quash the order of retrenchment of the Petitioner by the Respondent as illegal and unlawful and consequently direct the Respondent to compensate the Petitioner for monetary loss including salary due from 1-5-97 to 15-05-97 along with back wages, other attendant and service benefits, which comes to Rs. 2,22,065/—.

3. The averments in the Counter Statement filed by the II Party/Management NEPC Airlines (hereinafter refers to as Respondent) are briefly as follows:—

The petition is not maintainable for the reason that a similar petition seeking similar relief has been filed before this Hon'ble Tribunal by the General Secretary, NEPC employees Union and the said petition is nothing but abuse of process of this Court. The allegations contained in the Claim Statement are false say those that are specifically admitted herein. The

petition is not maintainable as this Hon'ble Tribunal does not have jurisdiction to entertain the same. The allegations in the Claim Statement that the Petitioner and other technicians were required to work 10 to 15 hours a day and at times all the 24 hours a day are false to the knowledge of the Petitioner and frivolous. The Respondent had carried on its business as per law and had adhered to all the welfare measures. The petition is not maintainable for the reason that Respondent was forced to ground its airline operations in the year 1997 it self and the Respondent is not carrying on business of air taxi operation. There is a serious crisis in the airlines industry carried on by the Respondent. The aircraft belonging to the Respondent was seized by various authorities for alleged non-payment of statutory dues. The Respondent also denied supply of fuel which also forced the Respondent to ground its operations. The closure of airlines business of the Respondent was due to operation of law and other reasons beyond their control. The Respondent has acted prudently keeping in mind the best interest of all its employees, and all the staff they have paid adequate compensation and the Petitioner is put to strict proof of the allegations mentioned in the Claim Statement. For the reasons beyond the control and for the reasons that the airlines business was closed due to operation of law and that the said closure was sudden, the Respondent was left with no other option but to retrench its employees and pay adequate compensation. As of to-day the Respondent is not carrying on the airlines business and has only a skeleton staff about seven employees who are incharge of the accounts department. All the employees were briefed and explained of the situation faced by the company and only then the Respondent had taken the decision to retrench its employees. In certain cases, the employees were terminated and in all cases adequate compensation was paid. In the light of the above facts, the Petitioner is not entitled to any relief prayed for and the petition is liable to be dismissed with exemplary cost. The relief prayed for is beyond the scope of reference, hence the same may be rejected. Hence, it is prayed that this Hon'ble Tribunal may be pleased to dismiss the claim of the Petitioner with exemplary cost.

4. When the matter was taken up for enquiry, no one has been examined as a witness on either side. On the side of the Petitioner 4 documents have been marked by consent as Ex.W1 to W4. No document has been marked on the side of the II Party/Management. The arguments advanced by learned counsel on either side were heard.

5. The Point for my consideration is —

“Whether the action of the management of NEPC Airlines in retrenching the services of Sri A. Shanmugasundaram w.e.f. 15-05-1997 is legal and justified? If not what are his legal dues and to what other relief the workman is entitled?”

Point :—

It is admitted that the Petitioner was appointed as Aircraft technician for the consolidated salary of Rs. 2500/- p.m.

The order of appointment dated 10.01.1995 issued by the Respondent/Management Executive Director to the Petitioner is Ex. W1. Ex. W2 is the order dated 4.10.95 issued by the Respondent/Management to the Petitioner on his satisfactory completion of probation period and for confirmation of his service, subject to the conditions mentioned therein. It is Ex. W2. Ex. W3 is the letter dated 20.4.96 issued to the Petitioner by the Respondent/Management for re-designating him as technician in Gr. VI in Engineering in the revised scale of pay. Ex. W4 is the letter dated 15.5.97 issued by the Respondent/Management informing the Petitioner stating that his services had been retrenched and he is eligible for the retrenchment compensation mentioned in detail in that letter. It is stated in that letter itself by the Respondent/Management that as the Petitioner was aware of the fact that most of the Respondent's flight schedules have been permanently cancelled due to non-availability of aircrafts at Chennai and as a result, the company has no other alternative but to retrench his services which is considered as surplus. All these documents filed by the Petitioner have not been disputed. From Ex. W4 it is seen that the Respondent/Management has given sufficient reasons for retrenching the services of the Petitioner. It is not the contention of the Petitioner that it is not true and only for the purpose of retrenching him from service, the Respondent/Management has given a false reasons. So the allegation of the Petitioner in his Claim Statement that the Respondent/Management all of a sudden terminated his services which is illegal is incorrect. Though he has alleged in the Claim Statement the Petitioner has not come forward to prove his plea that the situation was not warranted to retrench the employees by the Respondent/Management and the management was recruiting persons for the same post. So under the given circumstances, it cannot be said that the retrenchment is illegal, unjustified and arbitrary. The Petitioner himself has admitted in his Claim Statement that he was offered retrenchment compensation by a letter dated 15-05-97. The same has been filed by him as Ex. W4. So, under such circumstances, it cannot be said that retrenchment is illegal, unjustified or arbitrary action of the II Party/Management. For his other allegations in the Claim Statement, the Petitioner has not let in any acceptable oral or documentary evidence. So his allegations in the Claim Statement that the promised facilities to him by the Respondent/Management like leave travel assistance and ESI benefits have been denied cannot be accepted as correct. From the facts available in this case, it is seen that the Respondent/Management was forced to retrench the services of the Petitioner for the reasons that they have got to ground the aircrafts for the reasons beyond their control. It is not disputed that the Respondent/Management had to ground their aircrafts for the reasons they have given in the Counter Statement as the aircraft belonging to Respondent was seized by various authorities for alleged non-payment of statutory dues and denial of supply of fuel and due to operation of law and other reasons beyond their control. All these reasons given by the Respondent/Management as their inability to

carry out the operations of airline business has not been disproved by acceptable evidence by the Petitioner/Claimant as false. So, under such circumstances, the services of the Petitioner in the Respondent/Management was retrenched because of the stoppage of aircraft service business by the Respondent/Management and thereby there was no scope for further employment of the Petitioner under the Respondent/Management. The documentary evidence filed by the Petitioner goes to show while the Petitioner was kept in service of the Respondent/Management he was treated with proper welfare facilities as an employee under the Respondent/Management and he has also been given retrenchment compensation when he was retrenched from service by the Respondent/Management, which is in compliance with the provisions of Industrial Law. Under such circumstances, it cannot be said that the action of the Respondent/Management in terminating the services of the Petitioner Sri A. Shanmugasundaram w.e.f. 15.05.1997 as illegal or unjustified. Hence, the concerned workman is not entitled to any relief he prayed for in the Claim Statement. Thus, the point is answered accordingly.

6. In the result, an Award is passed holding that the concerned workman Sri A. Shanmugasundaram is not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 29th November, 2002.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :—

On either side : None

Documents Exhibited :—

For the I Party/Workman :—

Ex.No.	Date	Description
W1	10-01-95	Appointment letter of the Petitioner issued by the Respondent/Management.
W2	04-10-95	Terms and conditions of the Respondent NEPC Airlines Ltd. given to the Petitioner.
W3	20-04-96	Order of promotion issued to the Petitioner.
W4	15-05-97	Order of retrenchment issued to the Petitioner By the Respondent/Management.

For the II Party/Management :— Nil

नई दिल्ली, 15 जनवरी, 2003

का. आ. 504.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार एन. ई. पी. सी. एयर लाइन्स के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के

बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 546/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-01-03 को प्राप्त हुआ था।

[सं. एल-11012/14/98-आई. आर. (सी.-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 15th January, 2003

S.O. 504.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 546/2001) of the Central Government Industrial Tribunal Chennai now as shown in the annexure in the Industrial Dispute between the employers in relation to the management of NEPC Airlines and their workman, which was received by the Central Government on 10-01-2003.

[No. L-11012/14/98-IR(C-1)]

S. S. GUPTA, Under Secy

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 29th November, 2002

Present: K. KARTHIKEYAN,
Presiding Officer

INDUSTRIAL DISPUTE NO. 546/2001

(Tamil Nadu State Industrial Tribunal I.D.No. 152/98)

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between NEPC Airlines Employees Union and management of NEPC Airlines)

BETWEEN

The General Secretary, I Party/Claimant
NEPC Airlines Employees Union

AND

The Chairman & Managing Director, II Party/Management
NEPC Airlines

Appearance :

For the Claimant : Mr. P. S. Seetharaman
Advocate

For the Management : M/s. S. R. Rajagopal, K. Vasu
Venket, S.R. Raghunathan,
Advocates

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947), have referred the concerned industrial dispute

for adjudication vide Order No. L-11012/14/98-IR(C-1) dated 07-12-98.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, Chennai, where the same was taken on file as I.D. No. 152/98. When the matter was pending enquiry in that Tribunal Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu State Industrial Tribunal to this Tribunal for adjudication. On receipts of records from that Tamil Nadu State Industrial Tribunal, this case has been taken on file as I.D. No. 546/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 12-03-2001 and to prosecute this case further. Accordingly, learned counsel on either side have appeared and prosecuted this case further.

Upon persuing the Claim Statement, Counter Statement, the other material papers on record, after hearing the arguments advanced by the learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

“Whether the action of the management of NEPC Airlines, Chennai, in terminating/lying off the services of Employees named in the list is legal and justified ? If not, to what relief the concerned workman are entitled ?”

2. The averments in the Claim Statement filed by the I Party/Claimant NEPC Employees Union (hereinafter refers to as Petitioner) are briefly as follows :—

The employees of the NEPC Airlines which is a division of NEPC MICON Ltd. originally now known as NEPC India Ltd. was formed in the year 1967 is affiliated to Chennai-Chengai Anna General Employees Union registered under the Trade Unions Act, 1926. The present dispute referred to herein are numbering 44, out of which 7 members are covered under unlawful lay off against the provision of Industrial Disputes Act, 1947. NEPC MICON Ltd. now known as NEPC India Ltd. was originally incorporated on 22-05-1989 under Companies Act, 1956. NEPC Airlines is a division of NEPC MICON Ltd. and was formed in 1994, it recruited over 120 pilots and more than one thousand different categories of employees. The Airlines made a net profit of 5 crores and Rs. 8,122/- crores during the financial years 1994-95 and 1995-96 respectively as per the annual reports. The Respondent/Management compulsorily obtained bond from the pilots on joining the Respondent Management. It was one sided agreement. The pilots who were the members of

the union were made or signed the agreement to serve the company for three years or five years. But unfortunately, even before the end of the said period many of those employees have been illegally laid off/terminated arbitrarily without assigning any reason, or serving any notice as required under law on different dates. The worst part of the action of the management is that they also failed to obtain prior permission of the Govt. before the said lay off/termination. The details of the members of the Petitioner Union, the respective dates of joining, the date of lay off/termination have been mentioned in the Claim Statement. All the members of the union who have been referred to in the dispute were completed two or more continuous years of service and fulfil Section 25B of the Industrial Disputes Act, 1947 in terms of continuous service. The Respondent/Management had not obtained prior permission with the reasons for the intended lay off thereby violating Section 25(1) of Industrial Disputes Act, 1947. No copy of such application for permission if at all submitted to Govt. has been served simultaneously on the workmen concerned in the prescribed manner. It is also violation of Section 25M of Industrial Disputes Act, 1947. No copy of such permission from Govt. has been received by the Employees Union under Sub-section 4 of Section 25M. While laying off their employees on 31-03-97 and subsequent dates, no seniority—last come first go—principle was followed. The seniors in service were laid off and the juniors were retained in service. No compensation whatsoever was paid to the laid off employees of NEPC Airlines by the management thereby denying the right of the workman under Section 25C of Industrial Disputes Act, 1947. Some employees have been laid off for more than 45 days and there was no agreement made to that effect. The management had not provided/offered any alternate employment under Section 25C and Section 25E of the Act. The lay off was not due to strike or slowing of production or due to any fault on the part of the employees. Since no application for permission under sub-section (1) is made, the lay off should be deemed to be illegal from the date of workman had been laid off and they should be entitled to all the benefits under the law, as if they had not been laid off. All the laid off employees have been ultimately terminated on various dates without any notice or compensation which is *per se* illegal. The Respondent/Management while terminating the workmen/employees of the union violated the provisions of Industrial Disputes Act relating to retrenchment under Section 25N of Industrial Disputes Act. The workmen have not been given three months notice in writing indicating the reasons for Respondent or been in lieu of such notice wages, for the period of notice thereby violating Sub-section 1(a) of Section 25N of Industrial Disputes Act, 1947 by the Respondent/Management. No prior permission of the appropriate Govt. or such authority as may be specified by that Govt. by Notification in official gazette has been obtained by the NEPC Airlines management. It is a violation of Sub-section 1 of Section 25N of Industrial Disputes Act, 1947. No such copy of application has been served on the Workmen/Union concerned in the prescribed

manner and it is a violation of Sub-section 2 of Section 25N of Industrial Disputes Act, 1947. No copy of Govt. order if at all permission was obtained has been communicated to the workmen/union as per Sub-section 3 of Section 25N. Procedure for retrenchment was not followed in that the person to be employed in that category was not terminated first but the seniors were terminated and the juniors were retained. In the Captains category, Captain K. K. Sainani was terminated on 4-8-97 while his juniors like Captain Bhavani and others were retained. In the co-pilot category Captain Sangeev K. and Captain Mathivanan were terminated where as their junior like Captain Geethaanjali Naki and many others were retained violating Section 25G. Since no application for permission under Sub-section 1 of Section 25N has been made by the Respondent/Management, the retrenchment should be deemed to be illegal from the date of which notice of retrenchment was given to the workmen and they shall be entitled to all the benefits under the law for the time being in force as if, no notice has been given to them as per sub-section 7 of Section 25N of the Industrial Disputes Act, 1947. The alleged lay off and retrenchment are thus illegal, unlawful, contra to the provisions of Industrial Disputes Act, and as such those are liable to be set aside as unjustified. There is no compelling or forcing event that were all legal to be the reason to do the illegal act to unlawful retrenchment. In any event the termination of service of office bearers of the Petitioner Union of receipt of the letter of the union requesting for mutual discussion with the management will not stand a good reason but it will reflect the unfair labour practice adopted by the Respondent/Management. Because of the unlawful act of termination/lay off, the concerned employees were put in extreme financial hardship and mental agony. Therefore, for the reasons stated, it is prayed that this Hon'ble Tribunal may be pleased to hold the action of the Respondent/Management in lay off/terminating the services of the members of the union as per the list annexed is illegal, arbitrary and done in violating the provisions of Industrial Disputes Act, unfair labour practice, *malafide* and hence set aside the order of lay off/termination and consequently direct the Respondent/Management to suitably compensate to the individual union members as per Annexure A with effect from the respective date of termination with back wages and all attendant and service benefits.

3. The averments in the Counter Statement filed by the II Party/Management NEPC Airlines, Chennai (hereinafter refers to as Respondent) are briefly as follows :—

The Respondent NEPC Airlines is a Division of NEPC India Ltd. a Public Ltd. Company incorporated under the provisions of Companies Act, 1956. The Petition is not maintainable for the reason that a similar petition seeking similar relief has been filed before this Hon'ble Tribunal and the said petition is nothing but abuse of process of this Court. NEPC Airlines is not a judicial person and hence the petition is not maintainable for the same. The Respondent denies all the allegations contained in the Claim Statement

as false say those that are specifically admitted in the Counter Statement. As the Petitioner's union is not a registered Union the petition is not maintainable. The Petitioner has not disclosed its members on whose behalf the Petitioner is seeking relief before this Tribunal. At no stretch of imagination, the alleged Pilots on whose behalf the petition is alleged to have been filed be construed as workmen competent to seek relief and redressal before this Hon'ble Tribunal. As the Respondent was forced to ground its airlines operations in the year 1997 itself, the petition is not maintainable. The Petitioner cannot seek redressal for the pilots through this petition as the various pilots have sought independent relief before various Courts in India. The Petitioner has not disclosed facts necessary to constitute a cause of action, whereas the petition contains only sweeping and baseless allegations which would not give rise to a cause of action to maintain the petition. The Respondent had incurred huge expenditure to train pilots and the same was agreed to be recoverable from and out of the salaries of the pilots. The agreement executed by the pilots contain arbitration clause. Hence, this petition is liable to be dismissed for the same. The arbitration proceedings in respect of various pilots are pending adjudication. There was a serious crisis in the airlines industry carried on by the Respondent. The aircrafts belonging to the Respondent were seized by various authorities for alleged non-payment of statutory dues. The Respondent was forced to ground their operations for reasons beyond their control. The closure of the airlines business of the Respondent was due to operation of law and other reasons beyond its control. The Respondent has acted as a prudent person keeping in mind the best interest of its employees. The Petitioner has failed to disclose the persons on whose behalf the alleged petition has been filed. It is denied that the Respondent compulsorily obtained bond from the pilots. The allegation that the Respondent/Management obtained an one sided agreement is denied. The averment that the employees have been illegally laid off/terminated arbitrarily without assigning any reason or serving any notice denied as false and incorrect. The various employees were briefed and explained of the situation faced by the company and many of them have been retrenched/laid off/terminated with payment of adequate compensation only. The Respondents have completely closed down their commercial airlines operation and are not operating their aircrafts. The Respondent specifically denies the allegation that there was no compelling or forcing event for terminating the services of the employees and there is no necessity to terminate / lay off employees and it is an illegal lay off. The employees whom the union is representing are not entitled for the relief prayed for and the petition is liable to be dismissed. Therefore, it is prayed that this Hon'ble Tribunal may be pleased to dismiss the petition with exemplary cost.

4. When the matter was taken up for enquiry, no one has been examined as a witness on either side and no document has been marked on either side as an exhibit. The learned counsel on either side have advanced their respective arguments.

5. The Point for my consideration is —

“Whether the action of the management of NEPC Airlines, Chennai, in terminating/laying off the services of Employees named in the list is legal and justified? If not, to what relief the concerned workmen are entitled?”

Point :—

In the Annexure 'A' to the order of reference, names of 24 persons as Captains have been mentioned as the persons terminated from service by the Respondent. Under Annexure B names of six persons as Captains have been mentioned as persons laid off. Among the persons mentioned in Annexure 'A', one by name Captain V. K. Sharma has raised individually a dispute which was taken on file as I.D. No. 80/2001 by this Tribunal, which has been disposed of on 30-04-2001. The persons mentioned at Serial No. 20, Captain A. Sripathy also has raised an individual dispute which was taken on file as I.D. No. 82/2001 has been disposed of separately. Out of the members mentioned in Annexure 'A' as the persons laid off, the person mentioned under serial No. 1 Captain A. S. Ganguli also has raised an individual dispute which was taken on file by this Tribunal as I.D. No. 81/2001 also has been disposed of. The person mentioned under Serial No. 4 as K. K. Sainani has raised an individual dispute which was taken on file of this Tribunal as I. D. No. 735/2001 has been disposed of already on 28-2-2002.

6. A specific stand has been taken by the Respondent in their Counter Statement that the Petitioner Union has not been authorised by the concerned employees to raised this industrial disputes collectively espousing their cause to seek relief and redressal before this Hon'ble Tribunal and hence the Petitioner Union has no *locus standi* to raise this industrial dispute on behalf of those employees as a collective dispute. Further, it is alleged in the Counter Statement that in the agreements executed by the trainee pilots, it contains an arbitration clause and in respect of various pilots the arbitration proceedings are pending adjudication and in that event, the present petition filed by the Union for the pilots on whose behalf the petition is alleged to have been filed is not maintainable and the Petitioner Union is put to strict proof of the same. The learned counsel for the Respondent/Management also has put forth an argument to that effect. To satisfy all these requirements, the Petitioner Union has not come forward to prove that it has got the competence and authority to raise this dispute on behalf of the aggrieved pilots. No documentary or oral evidence has been let in on the side of the I Party/Union to disprove the contention of the II Party/

Management on this aspect. Further, it is already seen that two out of the list of members mentioned in Annexure 'A' and two out of the list of members mentioned in Annexure B of the order of reference for whom also along with others the I party/Union has raised this industrial dispute as a collective dispute on the basis that the Union has got competency and authority to do so. Those four persons have raised independently industrial disputes and they have been adjudicated and disposed of by this Tribunal as mentioned earlier. So, from this, it is seen that the persons mentioned in Annexures A and B as aggrieved employees for whom the Petitioner Union has raised this collective dispute have not authorised the Petitioner Union to raise this dispute on their behalf against the Respondent/Management for the relief prayed for. If really, the I Party/Union has got one such authorisation or competency to raise this dispute in a representative capacity for those aggrieved persons, the Petitioner Union would not have failed to let in oral or documentary evidence to prove that they have got authorisation and competency to raise this dispute. So, in the absence of one such evidence on the side of the Petitioner Union, it can be held that the Petitioner Union has no *locus standi* to raise this dispute on behalf of the persons mentioned as members in Annexures A and B with the Order of Reference. Further, the contention of the Respondent/Management that the petition is also not maintainable as the Petitioner Union is not a Registered Union. This has not been denied or disproved by producing acceptable legal evidence by the Petitioner. It is also contended by the Respondent/Management in their Counter Statement that various pilots have sought independent relief before various Courts in India and the Petitioner has not disclosed the facts necessary to constitute a cause of action for filing this petition as a collective dispute on behalf of the alleged aggrieved pilots employed by the Respondent/Management. This has not been denied by the Petitioner Union. Under such circumstances, the argument advanced by the learned counsel for the Respondent/Management on this aspect can be accepted as correct and it can be held that the present petition filed by the Petitioner Union in a representative capacity raised as a collective dispute cannot be accepted as valid dispute raised by the person has got authority and competency to do the same.

7. For the averment in the Claim Statement by the Petitioner Union that the act of the Respondent/Management against the pilots employed by them for the aircraft under NEPC Airlines without adopting the procedures and compliance of provisions of law under Industrial Disputes Act, 1947 in retrenching them from service is unlawful and violation of provisions of that Act. The Petitioner Union has not let in any acceptable evidence for their averment that the said persons have not been given any retrenchment compensation also has not been proved by sufficient acceptable evidence by the Petitioner.

Further the averment of the Petitioner Union in the Claim Statement that the employees have been illegally laid off/terminated arbitrarily without assigning any reason also has not been proved by any acceptable evidence, when especially the management has objected to the same in the Counter Statement, the reason for lay off under situation under which they were forced to ground their aircrafts. The averments mentioned in the Counter Statement of the Respondent/Management as reasons for grounding their aircrafts as reasons beyond their control has not been disputed as false by the Petitioner union. This dispute has been raised by the Petitioner Union claiming the relief for a direction by this Tribunal to the Respondent/Management to suitably compensate to the individual who are union members with effect from the respective date of termination with back wages and all attendant and service benefits. For claiming this relief on behalf of the concerned person, the Petitioner Union has not let in any evidence to prove that their claim is just and proper. From the materials available in this case and the plea raised by the either parties in this dispute, it is seen that the lay off/termination of services of the pilots concerned as an action taken by the Respondent/Management against them cannot be considered as illegal, arbitrary or done in violation of the provisions of Industrial Disputes Act. In view of this finding, this Tribunal cannot interfere with that action of the Respondent/Management and to set aside the same by exercising the powers of this Tribunal under section 11A of the Industrial Disputes Act, 1947. Under such circumstances, it can be held that the relief prayed for by the Petitioner Union on behalf of the concerned pilots mentioned in Annexures 'A' and 'B' to the Order of Reference cannot be granted. Thus, the point is answered accordingly.

8. In the result, an Award is passed holding that the relief prayed for by the I Party/Union cannot be granted. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 29th November, 2002.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined

On either side : None

Documents Exhibited

On either side : Nil

नई दिल्ली, 15 जनवरी, 2003

का. आ. 505.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन. ई. पी. सी. एयर लाइंस के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 79/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-01-03 को प्राप्त हुआ था।

[सं. एल-11012/43/98-आई. आर. (सी.-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 15th January, 2003

S.O. 505.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 79/2001) of the Central Government Industrial Tribunal, Chennai now as shown in the annexure in the Industrial Dispute between the employers in relation to the management of NEPC Airlines and their workman, which was received by the Central Government on 10-01-2003.

[No. L-11012/43/98-IR(C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 29th November, 2002

Present : K. KARTHIKEYAN,

Presiding Officer

INDUSTRIAL DISPUTE NO. 79/2001

(Tamil Nadu State Industrial Tribunal I.D.No.21/99)

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Captain Virendar Jeet Singh and management of NEPC Airlines.)

BETWEEN

Captain Virendar Jeet Singh : I Party/Workman

AND

The Chairman : II Party/Management.
NEPC Airlines

Appearance:

For the Workman : M/s. P.S. Seetharaman & Advocate.

For the Management : M/s. S.R. Rajagopal, K. Vasu Venket,
S.R. Raghunathan, Advocates.

The Government of India, Ministry of Labour in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No.L-11012/43/98-IR(C-I) dated 22-1-1999.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, Chennai, where the same

was taken on file as I.D. No. 21/99. When the matter was pending enquiry in that Tribunal, Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu State Industrial Tribunal to this Tribunal for adjudication. On receipt of records from that Tamil Nadu State Industrial Tribunal, this case has been taken on file as I.D. No. 79/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 29-01-2001 and to prosecute this case further. Accordingly, learned counsel on either side have appeared and prosecuted this case further.

Upon perusing the Claim Statement, Counter Statement, the documentary evidence let in on the side of the I Party/Workman along the other material papers on record, after hearing the arguments advanced by the learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above-mentioned order of reference by the Central Government for adjudication by this Tribunal is as follows :—

“Whether the action of the management of NEPC Airlines in terminating the service of Captain Virendar Jeet Singh, Pilot with effect from 31st March, 1997 is justified or not? If not justified, to what relief the workman is entitled?”

2. The averments in the Claim Statement filed by the I Party/Claimant Captain Virendar Jeet Singh (hereinafter refers to as Petitioner) are briefly as follows:—

The Petitioner was appointed as a Trainee Captain by the II Party/Management NEPC Airlines by a letter dated 30-12-1994. The Petitioner accepted the said appointment as ‘Trainee Captain’ and confirmed the same. The Petitioner was asked to sign an agreement dated 30-12-94 with NEPC Airlines, a division of NEPC Micon Ltd., a Public Limited Company incorporated and registered under Companies Act, 1956. The terms and conditions as laid down in the appointment letter formed part of the agreement. The essence of agreement is stated on page 2 of the said agreement and that the company would bear the training cost and that the Petitioner should serve the company for 5 years to liquidate the training cost amounting to Rs. 7.5 lakhs. After successful the ground and simulator training abroad and conversion flying training in India, the requisite a/c type endorsement and instrument rating from the Director General of Civil Aviation was obtained in March 1995. After fulfilling the requirements mandatory route checks, co-pilot hours, the Petitioner obtained PIC rating on 31-1-1996 from DGCA. With effect from that date, the Petitioner’s gross salary had been fixed at Rs.2,04,000 and

the net salary had been revised to Rs. 1,24,915/- p.m. after deduction of tax at source of Rs. 79,085/-. Since August, 1996 the Petitioner's salary had been delayed progressively every month and the payments were made with post-dated cheques. During September, 1996 on request from Senior Pilots of the company, one meeting was arranged with the Chairman Mr. Ravi Prakash Khemka. He assured that full compliment of nine account would be on line and salaries would be updated by the end of October, 1996. Instead of improvement, the situation deteriorated. Another meeting was held with the Director Mr. T.K. Khemka during January, 1997. He also promised that the financial situation would improve and all pending salaries would be updated by the end of February, 1997. This promise too did not hold any water. The Petitioner's October and November, 1996 salary was paid on 10-1-97 and post dated cheques for December, 1996 was paid in February, 1997. Salary for January, 1997 was paid by way of post dated cheques dated 28-3-97 one in Petitioner's name and another in his wife's name. These cheques were also dishonoured. Since then the Petitioner had not received the Petitioner's salaries for the months of January, February and March, 1997. The Petitioner also submitted his medical reimbursement claim for the year 1996-97 and encashment of leave for 1995 and 1996 which also had not been paid to him. Subsequently, the Petitioner received a letter dated 2-4-97 stating that Petitioner's services was no longer required by the company as such were terminated with immediate effect without assigning any reason or compensation which is illegal and contra to law. The said termination is arbitrary against the provisions of labour enactments and is liable to be set aside. As such the termination is without notice or any valid reason and violated the norms of labour enactments and as such liable to be set aside by this Hon'ble Court. The Petitioner is entitled for reinstatement with back wages. Though the company had deducted income tax at source from the paid wages, the same had not been remitted to the Govt. and form 16 had not been issued for 1996-97 and hence I.T. return for 1996-97 could not be filed by him. The Income Tax returns till date have been filed at Delhi. However, the income tax department have not settled the returns till this financial year. Due to the financial crisis created by NEPC Airlines management by not paying his rightful monthly salary, the Petitioner was forced to default on instalment payments. During the period of Petitioner's service with NEPC Airlines, Petitioner was medically fit and kept Petitioner's licence and instrument rating current and fulfilled all the contractual requirements as per the appointment letter and the said agreement. Fully trusting the management at each level and with the promises of financial revival by the Respondent/Management, the Petitioner extended fullest co-operation with the company by carrying out Petitioner's duty faithfully and sincerely despite non-receipt of salaries continuously for several months. Pending earned salaries and other dues to be paid to him by Respondent is given in detail. The Respondent/

Management may be instructed to pay all the Petitioner's rightful dues. Therefore, it is prayed that this Hon'ble Tribunal may be pleased to pass an award that termination of the Petitioner as illegal, violative of rules and law and consequently commute the dues and direct the Respondent to pay the claims namely Rs. 3,56,243/- towards salary dues, Rs. 27,738/- towards medical reimbursement claim for 1996-97, Rs. 31,280/- towards encashment of leave claim, Rs. 6,12,000/- towards salary compensation for termination without notice claim for three months salary, Rs. 1,25,000/- towards Gratuity for two years and two months service, bonus for the year 1995-96 and 1996-97, Rs. 1,00,000/- towards disturbance compensation due to transfer, total amounting to Rs. 12,52,261/-.

3. The averments in the Counter Statement filed by the 11 Party/Management the Chairman, NEPC Airlines (hereinafter refers to as Respondent) are briefly as follows :-

The Respondent denies all the allegations and averments contained in the Claim Statement except that was specifically admitted and the Petitioner is put to strict proof of the other allegations. The Claim Statement is against the Chairman, NEPC Airlines is not maintainable as NEPC Airlines is not a legal entity and only a division of NEPC India Ltd. There is no such designation as Chairman, NEPC Airlines Ltd. nor the said Chairman, NEPC Airlines Ltd. is the employer of the Petitioner/1 Party. On this count itself, the Claim Statement is liable to be dismissed in limine. The Airlines is not a company owned by the Government of India, therefore, the appropriate Govt. in this case is not the Central Govt. Hence, the reference of the instant industrial dispute to this Tribunal is without jurisdiction and hence, the same is liable to be rejected. In the normal course of business, since the persons have to be trained in aircrafts flown by them and special endorsements and licence had to be obtained from appropriate authorities, the Petitioner was imparted specialised training and huge sums for the same were spent. The Petitioner had signed the agreement inter-alia agreeing that the Petitioner would serve the Respondent for a minimum period of three years from the date of agreement and in the event of default, they would pay a sum of Rs. 7,50,000/- as liquidated damages. It is also inter-alia provided for settlement of dispute by arbitration. In most cases, arbitration proceedings have been initiated and are pending. The said agreement was entered into between NEPC Airlines, a division of NEPC India Ltd. and the Petitioner as well as other persons who represented to be the guarantor. It is denied that the gross salary of the Petitioner was Rs. 2,04,000/- per month and the net salary revised to Rs. 1,24,915/- after deduction of tax at source. The Petitioner is put to strict proof of this allegation. Due to reasons beyond the control and operation of law, the airlines was forced to be grounded and at that point of time, the Petitioner was informed about the same. It is well within the knowledge of the Petitioner that the

grounding of airlines was beyond the control of the Respondent. At this juncture, it is relevant to point out that thereafter since grounding of airlines, the Petitioner did not report for duty and he is gainfully employed with other airlines making use of the training imparted by the Respondent. It is also relevant to point out that in order to wriggle out his liability to pay the liquidated damages as borne out by the agreement, as an afterthought and counter blast to the arbitration instituted these proceedings, making false and fictitious claims. It is admitted that as per letter dated 7-5-97, the Petitioner was called upon to make payment of the balance of training cost amounting to Rs. 4,50,000/- after deduction of Rs. 3,00,000/- from the salary of February, March and April. It is denied and disputed that it was agreed that pending salaries would be paid shortly. The Petitioner is put to strict proof of the same. As on that date there was no amount due and liable to be paid to the Petitioner and on the contrary, only the Petitioner was due amounts towards balance of training cost for breach of terms of agreement. As per the policy for medical reimbursement, unless bills and relevant papers are submitted, there is no question of reimbursement of any amount and fanciful amount claimed to be due under these heads are denied and the Petitioner is put to strict proof. The leave encashment claimed is disputed. He has no leave at his credit. This itself would go to show the ingenuity in the claim of the Petitioner. It is denied that amounts are due and liable to be paid to the Petitioner. The amounts claimed are without any basis. They are beyond the scope of the dispute and reference. Hence, they do not deserve to be adjudicated upon. In any event, the amounts claimed by the Petitioner is disputed and he is not entitled to receive the same. By a letter dated 2-4-1997, the service of the Petitioner was terminated. The said letter was issued to the Petitioner subsequent to the grounding of aircraft and the Petitioner was gainfully employed and to put the records straight and to comply with the other requirements of law, the said letter was issued. The allegation that the termination was made without assigning any reason or payment of any compensation and that the same is illegal and contrary to law is denied. The Petitioner has taken employment elsewhere and is gainfully employed during the relevant point of time i.e. when the Petitioner abandoned his services with the Respondent. The income tax deducted at source was not remitted to Govt. and Form 16 not issued is denied as false. The said allegation is unwarranted and is beyond the scope and ambit of the dispute. The Petitioner has made false allegations knowing fully well the same to be false and are liable to be proceeded against for damages and perjury. The allegation that the Petitioner was forced to default in instalment payments is in no way concerned with the employer and since the Petitioner had abandoned the service, there is no question of any amount to be paid to the Petitioner by the employer. In any event, his default in instalment was only due to his conduct and the employer or this Respondent is not in any way liable

for the same. At no point of time, had this Respondent or employer deprived any persons of their rightful monies. The statement of salary and calculation given in Claim Statement are denied. The Petitioner is put to strict proof of the same. The Petitioner by no stretch of imagination or under law could be considered to be a workman as defined under Industrial Disputes Act. The Petitioner was discharging managerial/supervisory functions managing an aircraft. The Petitioner is not entitled to make any Claim Statement before this Tribunal and the Claim Statement made is without jurisdiction and authority. Without prejudice, it is submitted that there is no industrial dispute which has been raised and the reference made under section 10(1)(d) of the Industrial Disputes Act, 1947 to this Tribunal is bad. In the instant case, since there is no employer-employee relationship, there could be no industrial dispute more so when the pilot discharging managerial/supervisory functions and who is not a workman cannot raise or maintain any dispute. Due to the grounding of airlines and due to operation of law though various Govt. agencies take the department of Civil Aviation, the airlines operation was closed and the services of the employees except those in the accounts department were dispensed with. The Petitioner, therefore, is not eligible to be reinstated nor entitled for back wages. Therefore, it is prayed that this Hon'ble Tribunal may be pleased to dismiss the Claim Statement.

4. When the matter was taken up for enquiry, no one has been examined as a witness on either side. On the side of the Petitioner 5 documents have been marked by consent as Ex.W 1 to W 5. No document has been marked on the side of the II Party/Management. The arguments advanced by learned counsel on either side were heard.

5. The Point for my consideration is —

“Whether the action of the management of NEPC airlines in terminating the service of Captain Virendar Jeet Singh, Pilot with effect from 31st March, 1997 is justified or not? If not justified, to what relief the workman is entitled?”

Point: —

The Petitioner Captain Virendar Jeet Singh was appointed as Trainee Captain in NEPC Airlines, subject to the terms and conditions in an agreement he has entered into with the Respondent/Management NEPC Airlines, a division of NEPC Micon Ltd., a Public Limited Company. A xerox copy of the letter dated 30-12-94 sent by NEPC Micon Ltd. to the Petitioner informing him that he has been appointed as Trainee Captain is Ex.W 1. Ex.W 5 is the xerox copy of the agreement entered into between the Petitioner and the Respondent/Management on 30-12-1994. Ex.W 2 is the xerox copy of the annual income certificate dated 20-03-97 issued by the Financial Controller of NEPC Airlines to the Petitioner. Ex.W 3 is the xerox copy of the letter dated 31-03-1997 given by the Director, NEPC Airlines to the

Petitioner informing him that he has been terminated from service with immediate effect. Ex. W4 is the xerox copy of the letter dated 17-04-97 sent by the Petitioner to Director, NEPC Airlines, Chennai for full and final settlement. The Petitioner has come forward with this industrial dispute against the Respondent/Management alleging that the Respondent's action of termination of his services without assigning any reason or compensation is illegal and contra to law and pray for an order to be passed by this Tribunal by an Award that the termination of his services as illegal, violative of rules and law and consequently commuted dues and direct the Respondent/Management to pay him a total sum of Rs. 12,52,261/-.

6. The Respondent/Management has disputed this claim of the Petitioner stating that the Respondent/Management has spent huge sums for imparting specialised training in the aircrafts owned by them and for obtaining special endorsement and licence for the Petitioner from the appropriate authorities and that the Petitioner had signed the agreement inter alia, agreeing that he would serve the Respondent/Management for a minimum period of five years from the date of obtaining required endorsement and instrument rating from the Director General of Civil Aviation and in the event of default he would pay a sum of Rs. 7,50,000/- as liquidated damages and also settle the dispute by arbitration. It is further contended that due to reasons beyond the control of the Respondent/Management and operation of law, the airlines was forced to be grounded and at that point of time, the Petitioner was informed about the same and the Petitioner himself knows that the grounding of the airlines was beyond the control of the Respondent/Management. It is further contended that thereafter since grounding of airlines, the Petitioner did not report for duty and he is gainfully employed with other airlines, making use of the training imparted by the Respondent/Management and that in order to wriggle out his liability to pay the liquidated damages as borne out by the agreement as an afterthought and counter blast to the arbitration, instituted the proceedings making false and fictitious claims. The Respondent/Management would further contend that the Petitioner was called upon to make payment of balance of training cost amounting to Rs. 4,50,000/- after deduction of Rs. 3,00,000/- from the salaries of February, March and April and they are disputing that they have agreed that the pending salaries would be paid to him shortly and the Petitioner is put to strict proof of the same and that as on date there is no amount due and liable to be paid to the Petitioner and on the contrary only the Petitioner was due amounts towards balance of training cost for breach of terms of agreement. It is further contended that as per the policy for medical reimbursement unless bills and relevant papers are submitted there is no question of reimbursement of any amount and fanciful amount claimed to be due under these heads are denied and the Petitioner is put to strict proof of the same and that the Petitioner has no leave at his credit and the leave

encashment claim is disputed and that the amounts claimed are without any basis and the Petitioner is not entitled to receive the same. It is also the contention of the Respondent/Management that by a letter dated 31.03.1997 the service of the Petitioner was terminated and the said letter was issued to the Petitioner, subsequent to the grounding of aircraft and the Petitioner was gainfully employed and to put the records straight and to comply with other requirements of law, the said letter was issued. It is also contended that the Petitioner has taken employment elsewhere and is gainfully employed during the relevant point of time i.e. when he abandoned his services with the Respondent/Management. It is further contended by the Respondent/Management that due to the grounding of airlines and due to operation of law through various Govt. agencies take the Department of Civil Aviation, the airlines operation was closed and services of the employees excepting those in the accounts department were dispensed with. Therefore, the Petitioner is not eligible to be reinstated in service nor entitled for back wages.

7. The documents relied upon by the Petitioner as Ex. W1 to W3 and W5 support the stand taken by the Respondent/Management. A perusal of the agreement Ex. W5 goes to show that at the huge expenses incurred by the Respondent/Management, the Petitioner was trained as a aircraft pilot and was able to obtain special endorsements and licence from the appropriate authorities due to the specialised training, he had with the help of the Respondent/Management. One among the conditions in the agreement under Ex. W5 is that in order to secure the company against the expenses incurred on the training of the trainee and to ensure due compliance of the terms and conditions stipulated by the company and accepted by the trainee, it is agreed that the trainee shall be liable to pay liquidated damages to the sum of Rs. 7.5 lakhs to the company, as stipulated in the letter dated 30.12.94 and the loss of the company in the event of the failure of the trainee to comply with the agreed terms and conditions referred to will be far in excess of Rs. 7.5 lakhs and that the trainee and the guarantor shall be jointly as well as severally liable to pay the liquidated damages, as agreed to and it shall always be open to the company to proceed to recover the same from either of the parties or both of them jointly or severally. It is further stated in that agreement that in the event of any dispute/difference arising between the company the trainee and the guarantor in relation to this agreement or any matter ancillary thereto, the matter shall be referred to sole arbitration of the Chairman of the company or the person nominated by him in this behalf and the venue of arbitration will be at Madras and that the decision of the arbitrator shall be final and binding on both the parties.

8. All these stands taken by the Respondent/Management against the claim made by the Petitioner have not been disputed as incorrect. On the other hand, the documents exhibited by the Petitioner on his side except

Ex.W4, support the contention of the Respondent/Management as correct. It is not pleaded or adduced by way of evidence that he has ever taken any steps to have this dispute referred to an Arbitrator earlier as one of the conditions in the agreement under Ex.W5. The specific averment of the Respondent/Management in their Counter Statement that after the grounding of airlines by the Respondent/Management due to operation of law taken by the Department of Civil Aviation, the airlines operations was closed. The Petitioner did not report for duty since he is gainfully employed in other airlines making use of the training imparted by the Respondent/Management. The Petitioner has not denied or disputed the same by filing any reply statement or let in any contra evidence oral or documentary to disprove the same. The learned counsel for the Respondent/Management would argue further that the Petitioner not report for duty since he is gainfully employed with other airlines amounts to abandonment of the service of the Respondent/Management. Further, due to the grounding of airlines by the Respondent/Management for the reasons beyond the control of the Respondent/Management, there is no scope for the Petitioner to continue in service for want of one such post. So admittedly, there is no post for the Petitioner to serve any further in the Respondent/Management as pilot in command in the aircrafts operated by the Respondent/Management. So automatically, his employment came to an end. Under such circumstances, the Petitioner cannot ask for reinstatement in service, when especially it is based on a contract entered into between the Petitioner and the Respondent/Management as a service contract. Further, when the Petitioner himself has abandoned his job by taking an employment elsewhere, he cannot also claim any retrenchment compensation. So the question of retrenchment by the company Respondent/Management would not arise.

9. It is not the stand of the Petitioner that for claiming medical reimbursement, he submitted bills and relevant papers and the Respondent/Management only has refused to reimburse the said amount, he spent for medical expenses. When the Respondent/Management has taken a stand that the Petitioner is put to strict proof, he has not come forward to let in any oral or documentary evidence in support of his claim for medical reimbursement from the Respondent/Management. Like that, he has also not let in any acceptable evidence to show that his right to leave encashment has been denied by the Respondent/Management and he has got leave to his credit for encashment. Under such circumstances, in the absence of required proof to prove the averments of the Claim Statement of the Petitioner for the claim he has made against the Respondent/Management, it cannot be said that the Petitioner is entitled for the relief he prayed for in the claim petition. Nothing has been let in by way of acceptable evidence by the Petitioner that the action of the

Respondent/Management in terminating his services is illegal and is violative of rules and law and he is entitled for commutation of his alleged dues and for a direction to the Respondent/Management by this Tribunal to pay him the amount he is entitled to. Under such circumstances, it is held that the action of the management of NEPC Airlines in terminating the services of the Petitioner Captain Virender Jeet Singh, Pilot w.e.f. 31.03.97 is justified. Hence, the Petitioner/Claimant is not entitled for any relief. Thus, the point is answered accordingly.

10. In the result, an Award is passed holding that the I Party/Captain Virender Jeet Singh is not entitled for any relief under this dispute against the Respondent/Management NEPC Airlines. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 29th November, 2002.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined:—

On either side : None

Documents Exhibited:—

For the I Party/Workman:—

Ex. No.	Date	Description
W1	30-12-94	Xerox copy of the appointment order of the Petitioner issued By the Respondent/Management
W2	20-03-97	Xerox copy of the annual income certificate issued to the Petitioner.
W3	31-03-97	Xerox copy of the letter from NEPC Airlines to Petitioner Informing the termination of his service.
W4	17-04-97	Xerox copy of the letter from the Petitioner to the Respondent/Management to settle the amounts due to him.
W5	30-12-94	Xerox copy of the agreement entered by the Petitioner with NEPC Airlines Ltd.

For the II Party/Management:— Nil.

नई दिल्ली, 15 जनवरी, 2003

का. आ. 506.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन. ई.पी. सी.

एअरलाइंस के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या 81/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-1-2003 को प्राप्त हुआ था।

[सं. एल-11012/55/98-आई. आर. (सी.-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 15th January, 2003

S. O. 506.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 81/2001) of the Central Government Industrial Tribunal-cum-Labour Court Chennai now as shown in the annexure in the Industrial Dispute between the employers in relation to the management of NEPC Airlines and their workman, which was received by the Central Government on 10-1-2003.

[No. L-11012/55/98-IR(C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, CHENNAI

Friday, the 29th November, 2002

Present : K. KARTHIKEYAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 81/2001

(Tamil Nadu State Industrial Tribunal I.D.No. 23/99)

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Captain A.S. Ganguli and management of NEPC Airlines.]

BETWEEN

Captain A.S. Ganguli : I Party/Workman

AND

The Chairman, : II Party/Management.
NEPC Airlines

Appearance:

For the Workman : M/s. P.S. Seetharaman
& Advocate

For the Management : M/s. S.R. Rajagopal,
K. Vasu Venket,
S.R. Raghunathan,
Advocates.

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and

sub-section (2A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No. L-11012/55/98-IR(C-I) dated 22-1-1999.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, Chennai, where the same was taken on file as I.D. No. 23/99. When the matter was pending enquiry in that Tribunal, Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu State Industrial Tribunal to this Tribunal for adjudication. On receipt of records from that Tamil Nadu State Industrial Tribunal, this case has been taken on file as I.D. No. 81/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 30-1-2001 and to prosecute this case further. Accordingly, learned counsel on either side have appeared and prosecuted this case further.

Upon perusing the Claim Statement, Counter Statement, the documentary evidence let in on the side of the I Party/Workman alone, the other material papers on record, after hearing the arguments advanced by the learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following:—

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows:—

“Whether the action of the management of NEPC Airlines in terminating the service of Captain A.S. Ganguli, Pilot with effect from 18th October, 1997 is justified or not? If not justified, to what relief the workman is entitled?”

2. The averments in the Claim Statement filed by the I Party/Claimant Captain A.S. Ganguli (hereinafter refers to as Petitioner) are briefly as follows:—

The Petitioner was appointed as a Trainee Captain by the II Party/Management NEPC Airlines by a letter dated 2-2-1995. The Petitioner accepted the said appointment as ‘Trainee Captain’ and joined the Respondent company on 28-3-95. The Petitioner was asked to sign an agreement dated 28-3-1995 with NEPC Airlines, a division of NEPC Micon Ltd., a Public Limited Company incorporation and registered under Companies Act, 1956. The terms and conditions as laid down in the appointment letter formed part of the agreement. The essence of agreement is stated on page 2 of the said agreement and that the company would bear the training cost and that the Petitioner should serve the company for five years to liquidate the ground and simulator training abroad and conversion

flying training in India. The requisite, a/c type endorsement and instrument rating from the Director General of Civil Aviation was obtained on 22-11-1995. After fulfilling the requirements mandatory route checks, the Petitioner obtained PIC rating on F.27-MK-500 A/c on 22-4-96 from DGCA. With effect from that date the Petitioner's gross salary had been fixed at Rs.2,04,000 p.m. and the net salary had been revised to Rs.1,25,000 p.m. after deduction of tax at source. Since August, 1996 the Petitioner's salary had been delayed progressively every month and the payments were made with post-dated cheques. During September, 1996 on request from Senior Pilots of the company, one meeting was arranged with the Chairman Mr. Ravi Prakash Khemka. He assured that full compliment of nine a/c would be on line and salaries would be updated by the end of October, 1996. Instead of improvement, the situation deteriorated. Another meeting was held with the Director Mr. T.K.Khemka during January, 1997. He also promised that the financial situation would improve and all pending salaries would be updated by the end of February, 1997. This promise too did not hold any water. During May, 1997 the Petitioner received a letter dated 2-5-97 signed by Mr. T.K.Khemka stating that with effect from 5-5-97 he was laid off until further notice. The letter did not give any reason or duration or any terms and conditions for the lay off period. It is illegal, contra to law and unsustainable in law. Again the Petitioner received another letter NEPCAL/PERS/97 dated 5-5-1997 signed by Manager (Personnel) Mr. P.K.Biswas that pending salaries for the months of February, March and April, 1997 amounting to Rs.4,13,233 is being adjusted towards cost of his unrecoverable training cost on date amounting to Rs.6,00,000 payable to the company as per the agreement. The Petitioner contacted the General Manager Operations to obtain further information on lay off conditions as per the lay off letter. Since he had no answer, the Petitioner had contacted the President Mr. Jayanarayan along with three other senior commanders. He said that the lay off was for two months and the part of the pending salaries would be paid shortly. When asked about the deductions of training cost against the unpaid wages, he replied that it was the decision of the company management and cannot be altered. The Petitioner also submitted his medical reimbursement claim for the year 1996-97 and encashment of leave for 1995 and 1996 which also had not been paid to him. Subsequently, the Petitioner received a letter NEPCAL/PERS/97 dated 18-10-97 stating that the Petitioner's service was no longer required by the company and as such were terminated with immediate effect without assigning any reason or compensation which is illegal and contra to law. The said termination is against the provisions of labour enactments. Though the company had deducted income tax at source from the paid wages, the same had not been remitted to the Govt. and form 16 had not been issued for 1996-97 and hence I.T. return for 1996-97 could not be filed by him. Due to the financial crisis created by NEPC Airlines

management by not paying his rightful monthly salary, the Petitioner was forced to default on instalment payments. During the period of Petitioner's service with NEPC Airlines, Petitioner was medically fit and kept Petitioner's licence and instrument rating current and fulfilled all the contractual requirements as per the appointment letter and the said agreement. Fully trusting the management at each level and with the promises of financial revival by the Respondent/Management, the Petitioner extended fullest co-operation with the company by carrying out Petitioner's duty faithfully and sincerely despite non-receipt of salaries continuously for several months. Pending earned salaries and other dues to be paid to him by Respondent is given in detail. The Respondent/Management may be instructed to pay all the Petitioner's rightful dues. Therefore, it is prayed that this Hon'ble Tribunal may be pleased to pass an award that lay-off and termination of the Petitioner as illegal, violative of rules and law and consequently commute the dues and direct the Respondent to pay the total claim of Rs. 20,80,671 being salary for January, February, March and April, and four days in May, 1997 Rs. 8,32,323 and Rs. 5,95,548 being wages for lay off period from 5-5-97 to 18-10-97 at 50% of full salary, Rs. 6,12,000 being salary compensation for termination of service without notice as claim for three months salary and Rs. 40,800 being bonus for 1996-97.

3. The averments in the Counter Statement filed by the II Party/Management the Chairman, NEPC Airlines (hereinafter refers to as Respondent) are briefly as follows :—

The Respondent denies all the allegations and averments contained in the Claim Statement except that was specifically admitted and the Petitioner is put to strict proof of the other allegations. The Claim Statement is against the Chairman, NEPC Airlines is not maintainable as NEPC Airlines is not a legal entity and only a division of NEPC India Ltd. There is no such designation as Chairman, NEPC Airlines Ltd. nor the said Chairman, NEPC Airlines Ltd. is the employer of the Petitioner/I Party. On this count itself, the Claim Statement is liable to be dismissed in limine. The Airlines is not a company owned by the Government of India, therefore, the appropriate Govt. in this case is not the Central Govt. Hence, the reference of the instant industrial dispute to this Tribunal is without jurisdiction and hence, the same is liable to be rejected. In the normal course of business, since the persons have to be trained in aircrafts flown by them and special endorsements and licence had to be obtained from appropriate authorities, the Petitioner was imparted specialised training and huge sums for the same were spent. The Petitioner had signed the agreement inter-alia agreeing that the Petitioner would serve the Respondent for a minimum period of three years from the date of agreement and in the event of default, they would pay a sum of Rs. 7,50,000 as liquidated damages. It is also inter-alia provided for settlement of dispute by

arbitration. In most cases, arbitration proceedings have been initiated and are pending. The said agreement was entered into between NEPC Airlines, a division of NEPC India Ltd. and the Petitioner as well as other persons who represented to be the guarantor. It is denied that the gross salary of the Petitioner was Rs. 2,04,000 per month and the net salary revised to Rs. 1,25,000 after deduction of tax at source. The Petitioner is put to strict proof of this allegation. Due to reasons beyond the control and operation of law, the airlines was forced to be grounded and at that point of time, the Petitioner was informed about the same. It is well within the knowledge of the Petitioner that the grounding of airlines was beyond the control of the Respondent. At this juncture, it is relevant to point out that thereafter since grounding of airlines, the Petitioner did not report for duty and he is gainfully employed with other airlines making use of the training imparted by the Respondent. It is also relevant to point out that in order to wriggle out his liability to pay the liquidated damages as borne out by the agreement, as an afterthought and counter blast to the arbitration instituted these proceedings, making false and fictitious claims. It is admitted that as per letter dated 7-5-97, the Petitioner was called upon to make payment of the balance of training cost amounting to Rs. 4,50,000/- after deduction of Rs. 3,00,000 from the salary of February, March and April. It is denied and disputed that it was agreed that pending salaries would be paid shortly. The Petitioner is put to strict proof of the same. As on that date there was no amount due and liable to be paid to the Petitioner and on the contrary, only the Petitioner was due amounts towards balance of training cost for breach of terms of agreement. As per the policy for medical reimbursement, unless bills and relevant papers are submitted, there is no question of reimbursement of any amount and fanciful amount claimed to be due under these heads are denied and the Petitioner is put to strict proof. The leave encashment claimed is disputed. He has no leave at his credit. This itself would go to show the ingenuity in the claim of the Petitioner. It is denied that amounts are due and liable to be paid to the Petitioner. The amounts claimed are without any basis. They are beyond the scope of the dispute and reference. Hence, they do not deserve to be adjudicated upon. In any event, the amounts claimed by the Petitioner is disputed and he is not entitled to receive the same. By a letter dated 02-04-97, the service of the Petitioner was terminated. The said letter was issued to the Petitioner subsequent to the grounding of aircraft and the Petitioner was gainfully employed and to put the records straight and to comply with the other requirements of law, the said letter was issued. The allegation that the termination was made without assigning any reason or payment of any compensation and that the same is illegal and contrary to law is denied. The Petitioner has taken employment elsewhere and is gainfully employed during the relevant point of time i.e. when the Petitioner abandoned his services with the Respondent. The income tax deducted

at source was not remitted to Govt. and form 16 not issued is denied as false. The said allegation is unwarranted and is beyond the scope and ambit of the dispute. The Petitioner has made false allegations knowing fully well the same to be false and are liable to be proceeded against for damages and perjury. The allegation that the Petitioner was forced to default in instalment payments is in no way concerned with the employer and since the Petitioner had abandoned the service, there is no question of any amount to be paid to the Petitioner by the employer. In any event, his default in instalment was only due to his conduct and the employer or this Respondent is not in any way liable for the same. At no point of time, had this Respondent or employer deprived any persons of their rightful monies. The statement of salary and calculation given in Claim Statement are denied. The Petitioner is put to strict proof of the same. The Petitioner by no stretch of imagination or under law could be considered to be a workman as defined under Industrial Disputes Act. The Petitioner was discharging managerial/supervisory functions managing an aircraft. The Petitioner is not entitled to make any Claim Statement before this Tribunal and the Claim Statement made is without jurisdiction and authority. Without prejudice, it is submitted that there is no industrial dispute which has been raised and the reference made under Section 10(1)(d) of the Industrial Disputes Act, 1947 to this Tribunal is bad. In the instant case, since there is no employer-employee relationship, there could be no industrial dispute more so when the pilot discharging managerial/supervisory functions and who is not a workman cannot raise or maintain any dispute. Due to the grounding of airlines and due to operation of law though various Govt. agencies take the department of Civil Aviation, the airlines operation was closed and the services of the employees except those in the accounts department were dispensed with. The Petitioner, therefore, is not eligible to be reinstated nor entitled for back wages. Therefore, it is prayed that this Hon'ble Tribunal may be pleased to dismiss the Claim Statement.

4. When the matter was taken up for enquiry, no one has been examined as a witness on either side. On the side of the Petitioner 5 documents have been marked by consent as Ex. W1 to W5. No document has been marked on the side of the II Party/Management. The arguments advanced by learned counsel on either side were heard.

5. The Point for my consideration is—

“Whether the action of the management of NEPC airlines in terminating the service of Captain A.S. Ganguli, Pilot with effect from 18th October, 1997 is justified or not? If not justified, to what relief the workman is entitled?”

Point :—

The Petitioner Captain A.S.Ganguli was appointed as Trainee Captain in NEPC Airlines, subject to the terms and conditions in an agreement he has entered into with the Respondent/Management NEPC Airlines, a division of NEPC Micon Ltd., a Public Limited Company. A xerox copy of the letter dated 2-2-1995 sent by NEPC Micon Ltd. to the Petitioner informing him that he has been appointed as Trainee Captain is Ex. W1. Ex. W2 is the xerox copy of the agreement entered into between the Petitioner and the Respondent/Management on 28-03-1995. Ex. W3 is the xerox copy of the letter dated 2-5-97 sent by the Director, NEPC Airlines to the Petitioner informing him about the lay off with immediate effect, until further notice with a direction to the Petitioner to be in touch with the General Manager (operations) for further information. Ex. W4 is the xerox copy of the letter dated 7-5-1997 sent by Manager Personnel of NEPC Airlines to the Petitioner informing him that his pending salary for the months of February, March, April, 1997 amounting to Rs. 4,13,233 is adjusted against his unrecovered training cost as on date amounts to Rs. 6,00,000 payable to the company by him as per the agreement he has signed. Ex. W5 is the xerox copy of the letter dated 18-10-1997 sent by Director, NEPC Airlines to the Petitioner informing him that his services are no longer required by the company and his services are terminated with immediate effect. The Petitioner has come forward with this industrial dispute against the Respondent/Management alleging that the Respondent's action of termination of his services without assigning any reason and without paying any compensation is illegal and contra to law and pray for an order to be passed by this Tribunal by an Award that the lay off and termination of his services as illegal, violative of rules and law and consequently commuted dues and direct the Respondent/Management to pay him a total sum of Rs. 20,80,671.

6. The Respondent/Management has disputed this claim of the Petitioner stating that the Respondent/Management has spent huge sums for imparting specialised trainings in the aircrafts owned by them and for obtaining special endorsement and licence for the Petitioner from the appropriate authorities and that the Petitioner had signed the agreement *inter alia*, agreeing that he would serve the Respondent/Management for a minimum period of three years from the date of agreement and in the event of default he would pay a sum of Rs. 7,50,000 as liquidated damages and also settle the dispute by arbitration. It is further contended that due to reasons beyond the control of the Respondent/Management and operation of law, the airlines was forced to be grounded and at that point of time, the Petitioner was informed about the same and the Petitioner himself knows that the grounding of the airlines was beyond the control of the Respondent/Management. It is further contended that thereafter since grounding of airlines, the Petitioner did not report for duty and he is gainfully

employed with other airlines, making use of the training imparted by the Respondent/Management and that in order to wriggle out his liability to pay the liquidated damages as borne out by the agreement as an afterthought and counter blast to the arbitration, instituted the proceedings making false and fictitious claims. The Respondent/Management would further contend that the Petitioner was called upon to make payment of balance of training cost amounting to Rs.6,00,000/- after deduction of Rs. 4,13,233 from the salaries of February, March and April and they are disputing that they have agreed that the pending salaries would be paid to him shortly and the Petitioner is put to strict proof of the same and that as on date there is no amount due and liable to be paid to the Petitioner and on the contrary only the Petitioner was due amounts towards balance of training cost for breach of terms of agreement. It is also the contention of the Respondent/Management that by a letter dated 18-10-97 the service of the Petitioner was terminated and the said letter was issued to the Petitioner, subsequent to the grounding of aircraft and the Petitioner was gainfully employed and to put the records straight and to comply with other requirements of law, the said letter was issued. It is also contended that the Petitioner has taken employment elsewhere and is gainfully employed during the relevant point of time i.e. when he abandoned his services with the Respondent/Management. It is further contended by the Respondent/Management that due to the grounding of airlines and due to operation of law through various Govt. agencies taken by the Department of Civil Aviation, the airlines operation was closed and services of the employees excepting those in the accounts department were dispensed with. Therefore, the Petitioner is not eligible to be reinstated in service nor entitled for back wages.

7. The documents relied upon by the Petitioner as Ex. W1 to W5 support the stand taken by the Respondent/Management. A perusal of the agreement Ex. W2 goes to show that at the huge expenses incurred by the Respondent/Management, the Petitioner was trained as a aircraft pilot and was able to obtain special endorsements and licence from the appropriate authorities due to the specialised training, he had with the help of the Respondent/Management. One among the conditions in the agreement under Ex. W2 that in order to secure the company against the expenses incurred on the training of the trainee and to ensure due compliance of the terms and conditions stipulated by the company and accepted by the trainee, it is agreed that the trainee shall be liable to pay liquidated damages to the sum of Rs. 7.5 lakhs to the company, as stipulated in the agreement dated 28-03-95 and the loss of the company in the event of the failure of the trainee to comply with the agreed terms and conditions referred to will be far in excess of Rs. 7.5 lakhs and that the trainee and the guarantor shall be jointly as well as severally liable to pay the liquidated damages, as agreed to and it shall always

be open to the company to proceed to recover the same from either of the parties or both of them jointly or severally. It is further stated in that agreement that in the event of any dispute/difference arising between the company the trainee and the guarantor in relation to this agreement or any matter ancillary thereto, the matter shall be referred to sole arbitration of the Chairman of the company or the person nominated by him in this behalf and the venue of arbitration will be at Madras and that the decision of the arbitrator shall be final and binding on both the parties.

8. All these stands taken by the Respondent/Management against the claim made by the Petitioner have not been disputed as incorrect. On the other hand, the documents exhibited by the Petitioner on his side, support the contention of the Respondent/Management as correct. It is not pleaded or adduced by way of evidence that he has ever taken any steps to have this dispute referred to an Arbitrator earlier as one of the conditions in the agreement under Ex.W2. The specific averment of the Respondent/Management in their Counter Statement that after the grounding of airlines by the Respondent/Management due to operation of law taken by the Department of Civil Aviation, the airlines operations was closed. The Petitioner did not report for duty since he is gainfully employed, in other airlines making use of the training imparted by the Respondent/Management. The Petitioner has not denied or disputed the same by filing any reply statement or let in any contra evidence oral or documentary to disprove the same. The learned counsel for the Respondent/Management would argue further that the Petitioner not report for duty since he is gainfully employed with other airlines amounts to abandonment of the service of the Respondent/Management. Further, due to the grounding of airlines by the Respondent/Management for the reasons beyond the control of the Respondent/Management, there is no scope for the Petitioner to continue in service for want of one such post. So admittedly, there is no post for the Petitioner to serve any further in the Respondent/Management as pilot in command in the aircrafts operated by the Respondent/Management. So automatically, his employment came to an end. Under such circumstances, the Petitioner cannot ask for reinstatement in service, when especially it is based on a contract entered into between the Petitioner and the Respondent/Management as a service contract. Further, when the Petitioner himself has abandoned his job by taking an employment elsewhere, he cannot also claim any retrenchment compensation. So the question of retrenchment by the company Respondent/Management would not arise. Under such circumstances, in the absence of required proof to prove the averments of the Claim Statement of

the Petitioner for the claim he has made against the Respondent/Management, it cannot be said that the Petitioner is entitled for the relief he prayed for in the claim petition. Nothing has been let in by way of acceptable evidence by the Petitioner that the lay off observed by the Respondent/Management is illegal and his termination is violative of rules and law and he is entitled for commutation of his alleged dues and for a direction to the Respondent/Management by this Tribunal to pay him the amount he is entitled to. Under such circumstances, it is held that the action of the management of NEPC Airlines in terminating the services of the Petitioner Captain A. S. Ganguli, Pilot w.e.f. 18-10-1997 is justified. Hence, the Petitioner/Claimant is not entitled for any relief. Thus, the point is answered accordingly.

9 In the result, an Award is passed holding that the I Party/Captain A. S. Ganguli is not entitled for any relief under this dispute against the Respondent/Management NEPC Airlines. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open Court on this day the 29th November, 2002.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined:—

On either side : None

Documents Exhibited:—

For the I Party/Workman:—

Ex.No.	Date	Description
W1	31-02-95	Xerox copy of the appointment order of the Petitioner issued by the Respondent/Management.
W2	28-03-95	Xerox copy of the agreement entered by the Petitioner with NEPC Airlines Ltd.
W3	02-05-97	Xerox copy of the letter from NEPC Airlines to Petitioner Informing lay off with immediate effect.
W4	07-05-97	Xerox copy of the letter from NEPC Airlines to Petitioner informing adjustment of payable amount to company.
W5	18-10-97	Xerox copy of the letter from NEPC Airlines to Petitioner informing the termination of his service.

For the II Party/Management :— Nil

नई दिल्ली, 15 जनवरी, 2003

का. आ. 507.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन.ई.पी.सी. एअर लाइंस के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 78/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-01-2003 को प्राप्त हुआ था।

[सं. एल-11012/56/98-आई. आर. (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 15th January, 2003

S.O. 507.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 78/2001) of the Central Government Industrial Tribunal, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of NEPC Air Lines and their workman, which was received by the Central Government on 10-01-2003.

[No. L-11012/56/98-IR (C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI.

Friday, the 29th November, 2002

PRESENT: K. Karthikeyan,
Presiding Officer

INDUSTRIAL DISPUTE NO. 78/2001
(Tamil Nadu State Industrial Tribunal I. D. No. 20/99)

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Captain N. S. Lohan and management of NEPC Airlines.)

BETWEEN

Captain N. S. Lohan : I Party/Workman.

AND

The Chairman,
NEPC Airlines : II Party/Management.

APPEARANCE:

For the Workman : M/s. P. S.
Seetharaman &
Advocate

For the Management : M/s. S. R. Rajagopal,
K. Vasu Venket,
S. R. Raghunathan,
Advocates.

The Govt of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No. L-11012/56/98-IR (C-I) dated 22-01-1999.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, Chennai, where the same was taken on file as I.D. No. 20/99. When the matter was pending enquiry in that Tribunal, Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu State Industrial Tribunal to this Tribunal for adjudication. On receipt of records from that Tamil Nadu State Industrial Tribunal, this case has been taken on file as I.D. No. 78/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 29-01-2001 and to prosecute this case further. Accordingly, learned counsel on either side have appeared and prosecuted this case further.

Upon perusing the Claim Statement, Counter Statement, the documentary evidence let in on the side of the I Party/Workman alone, the other material papers on record, after hearing the arguments advanced by the learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

SCHEDULE

“Whether the action of the management of NEPC Airlines in terminating the service of Captain N. S. Lohan, Pilot with effect from 18th October, 1997 is justified or not? If not justified, to what relief the workman is entitled?”

2. The averments in the Claim Statement filed by the I Party/Claimant Captain N. S. Lohan (hereinafter refers to as Petitioner) are briefly as follows :—

The Petitioner was appointed as a Trainee Captain by the II Party/Management NEPC Airlines by a letter dated 18-10-1993. The Petitioner accepted the said appointment as ‘Trainee Captain’ and confirmed the same by letter of the Petitioner dated 21-10-1993. The Petitioner was asked to sign an agreement dated 10-11-1993 with NEPC Airlines, a division of NEPC Micon Ltd., a Public Limited Company incorporation and registered under Companies Act, 1956. The terms and conditions as laid down in the appointment letter formed part of the agreement. The essence of agreement is stated on page 2 of the said agreement and

that the company would bear the training cost and that the Petitioner should serve the company for three years to liquidate the ground and simulator training abroad and conversion flying training in India. The requisite a/c. type endorsement and instrument rating from the Director General of Civil Aviation was obtained in March, 1994. After fulfilling the requirements mandatory route checks, the Petitioner obtained PIC rating that date the Petitioner's gross salary had been fixed at Rs. 2,04,000/- p.m. and the net salary had been revised to Rs. 1,25,000/- p.m. after deduction of tax at source. Since August, 1996 the Petitioner's salary had been delayed progressively every month and the payments were made with post-dated cheques. During September, 1996 on request from Senior Pilots of the company, one meeting was arranged with the Chairman Mr. Ravi Prakash Khemka. He assured that full compliment of nine account would be on line and salaries would be updated by the end of October, 1996. Instead of improvement, the situation deteriorated. Another meeting was held with the Director Mr. T. K. Khemka during January, 1997. He also promised that the financial situation would improve and all pending salaries would be updated by the end of February, 1997. This promise too did not hold any water. The Petitioner's January, 1997 salary was paid on 29-4-97 with a post-dated cheque No. 35558 dated 29-04-97. On 29-05-97, the Petitioner happened to be read a notice on the Airport movement control notice board by the Financial Controller that due to year end financial commitments it would be very difficult to honour the post dated cheques 29-4-97 issued to senior commanders and pilots and not to send the cheques for clearing. Thereafter, the Petitioner was asked to return the cheque to the Accounts Department with a promise that the petitioner would be paid Petitioner's January, 1997 salary within a week. Finally, the salary for January, 1997 was paid on 29-4-97 by a post-dated cheque No. 509241 dated 29-4-97. Since then, the Petitioner had not received salary for the months of February, March, April and upto 4th May, 1997. During May, 1997, the Petitioner received a letter NEPCAL/OPS/97 dated 2-5-1997 signed by the Director Mr. T. K. Khemka that effecting 5th May, 1997 he was laid off until further notice. The letter did not give any reason or duration or any terms and conditions for the lay off period. It is illegal, contra to law and unsustainable in law. Again the petitioner received another letter NEPCAL/PERS/97 dated 7-5-1997 signed by Manager (Personnel) Mr. P. K. Biswas that pending salaries for the months of February, March and April, 1997 amounting to Rs. 3,00,000/- is being adjusted towards cost of his unrecoverable training cost on date amounting to Rs. 4,50,000/- payable to the company as per the agreement. The Petitioner contacted the General Manager Operations to obtain further information on lay off letter. Since he had no answer, the Petitioner had contacted the President Mr. Jayanarayan along with three other senior commanders. He said that the lay off was for two months and the part of the pending salaries would be

paid shortly. When asked about the deductions of training cost against the unpaid wages, he replied that it was the decision of the company management and cannot be altered. The Petitioner also submitted his medical reimbursement claim for the year 1996-97 and encashment of leave for 1995-96 which also had not been paid to him. Subsequently, the Petitioner received a letter NEPCAL/PERS/97 dated 18-10-97 stating that the Petitioner's service was no longer required by the company and as such were terminated with immediate effect without assigning any reason or compensation which is illegal and contra to law. The said termination is against the provisions of labour enactments. Though the company had deducted income tax at source from the paid wages, the same had not been remitted to the Govt. and form 16 had not been issued for 1996-97 and hence I.T. return for 1996-97 could not be filed by him. Due to the financial crisis created by NEPC Airlines management by not paying his rightful monthly salary, the Petitioner was forced to default on instalment payments. During the period of Petitioner's service with NEPC Airlines, The Petitioner was medically fit and kept Petitioner's licence and instrument rating current and fulfilled all the contractual requirements as per the appointment letter and the said agreement. Fully trusting the management at each level and with the promises of financial revival by the Respondent/Management, the Petitioner extended fullest co-operation with the company by carrying out Petitioner's duty faithfully and sincerely despite non-receipt of salaries continuously for several months. Pending earned salaries and other dues to be paid to him by Respondent is given in detail. The Respondent/Management may be instructed to pay all the Petitioner's rightful dues. Therefore, it is prayed that this Hon'ble Tribunal may be pleased to pass an award that lay-off and termination of Petitioner as illegal, violative of rules and law and consequently commute the dues and direct the Respondent to pay the claims namely Rs. 6,38,323/- towards salary dues, Rs. 5,52,774/- towards wages compensation for lay off period from 5th May to 18th October, 1997, Rs. 40,800/- towards medical reimbursement claim for 1996-97; Rs. 60,320/- towards encashment of leave claim, Rs. 6,12,000/- towards salary compensation for termination without notice claim for three months salary, Rs. 40,800/- towards bonus for the 1996-97, Rs. 11,91,097/- towards total salary dues and Rs. 35,29,200/- towards back wages after the date of termination from 19-10-97 to 26-03-1999.

3. The averments in the Counter Statement filed by the II Party/Management the Chairman, NEPC Airlines (hereinafter refers to as Respondent) are briefly as follows:—

The Respondent denies all the allegations and averments contained in the Claim Statement except that are specifically admitted and the Petitioner is put to strict proof of the other allegations. The Claim Statement is against the Chairman, NEPC Airlines is not maintainable as NEPC

Airlines is not a legal entity and only a division of NEPC India Ltd. There is no such designation as Chairman, NEPC Airlines Ltd. nor the said Chairman, NEPC Airlines Ltd. is the employer of the Petitioner/1 Party. On this count itself, the Claim Statement is liable to be dismissed in limine. The Airlines is not a company owned by the Government of India, therefore, the appropriate Govt. in this case is not the Central Govt. Hence, the reference of the instant industrial dispute to this Tribunal is without jurisdiction and hence, the same is liable to be rejected. In the normal course of business, since the persons have to be trained in aircrafts flown by them and special endorsements and licence had to be obtained from appropriate authorities, the Petitioner was imparted specialised training and huge sums for the same were spent. The Petitioner had signed the agreement inter-alia agreeing that the Petitioner would serve the Respondent for a minimum period of three years from the date of agreement and in the event of default, they would pay a sum of Rs. 7,50,000/- as liquidated damages. It is also inter-alia provided for settlement of dispute by arbitration. In most cases, arbitration proceedings have been initiated and are pending. The said agreement was entered into between NEPC Airlines, a division of NEPC India Ltd. and the Petitioner as well as other persons who represented to be the guarantor. It is denied that the gross salary of the Petitioner was Rs. 2,04,000/- per month and the net salary revised to Rs. 1,25,000/- after deduction of tax at source. The Petitioner is put to strict proof of this allegation. Due to reasons beyond the control and operation law, the Airlines was forced to be grounded and at that point of time, the Petitioner was informed about the same. It is well within the knowledge of the Petitioner that the grounding of Airlines was beyond the control of the Respondent. At this juncture, it is relevant to point out that thereafter since grounding of Airlines, the Petitioner did not report for duty and he is gainfully employed with other Airlines making use of the training imparted by the Respondent. It is also relevant to point out that in order to wriggle out his liability to pay the liquidated damages as borne out by the agreement, as an afterthought and counter blast to the arbitration instituted these proceedings, making false and fictitious claims. It is admitted that as per letter dated 7-5-97, the Petitioner was called upon to make payment of the balance of training cost amounting to Rs. 4,50,000/- after deduction of Rs. 3,00,000/- from the salary of February, March and April. It is denied and disputed that it was agreed that pending salaries would be paid shortly. The petitioner is put to strict proof of the same. As on that date there was no amount due and liable to be paid to the Petitioner and on the contrary, only the Petitioner was due amounts towards balance of training cost for breach of terms of agreement. As per the policy for medical reimbursement, unless bills and relevant papers are submitted, there is no question of reimbursement of any amount and fanciful amount claimed to be due under these heads are denied and the Petitioner is put to strict

proof. The leave encashment claimed is disputed. He has no leave at his credit. This itself would go to show the ingenuity in the claim of Petitioner. It is denied that amounts are due and liable to be paid to the Petitioner. The amount claimed are without any basis. They are beyond the scope of the dispute and reference. Hence, they do not deserve to be adjudication upon. In any event, the amounts claimed by the Petitioner is disputed and he is not entitled to receive the same. By a letter dated 24-05-1997, the service of the Petitioner was terminated. The said letter was issued to the Petitioner subsequent to the grounding of aircraft and the Petitioner was gainfully employed and to put the records straight and to comply with the other requirements of law, the said letter was issued. The allegation that the termination was made without assigning any reason or payment of any compensation and that the same is illegal and contrary to law is denied. The Petitioner has taken employment elsewhere and is gainfully employed during the relevant point of time i.e. when the Petitioner abandoned his services with the Petitioner. The income tax deducted at source was not remitted to Govt. and form 16 not issued is denied as false. The said allegation is unwarranted and is beyond the scope and ambit of the dispute. The Petitioner has made false allegations knowing fully well the same to be false and are liable to be proceeded against for damages and perjury. The allegation that the Petitioner was forced to default in instalment payments is in no way concerned with the employer and since the Petitioner had abandoned the service there is no question of any amount to be paid to the Petitioner by the employer. In any event, his default in instalment was only due to his conduct and the employer or this Respondent is not in any way liable for the same. At no point of time, had this Respondent or employer deprived any persons of their rightful monies. The statement of salary and calculation given in Claim Statement are denied. The Petitioner is put to strict proof of the same. The Petitioner by no stretch of imagination or under law could be considered to be a workman as defined under Industrial Disputes Act. The Petitioner was discharging managerial/supervisory functions managing an Aircraft. The Petitioner is not entitled to make any Claim Statement before this Tribunal and the Claim Statement made is without jurisdiction and authority. Without prejudice, it is submitted that there is no industrial dispute which has been raised and the reference made under Section 10(1)(d) of the Industrial Disputes Act, 1947 to this Tribunal is bad. In the instant case, since there is no employer-employee relationship, there could be no industrial dispute more so when the pilot discharging managerial/supervisory functions and who is not a workman cannot raise or maintain any dispute. Due to the grounding of Airlines and due to operation of law though various Govt. agencies take the department of Civil Aviation, the Airlines operation was closed and the services of the employees except those in the accounts department were dispensed with. The Petitioner,

therefore, is not eligible to be reinstated nor entitled for back wages. Therefore it is prayed that this Hon'ble Tribunal may be pleased to dismiss the Claim Statement.

4. When the matter was taken up for enquiry, no one has been examined as a witness on either side. On the side of the Petitioner 8 documents have been marked by consent as Ex. W1 to W8. No document has been marked on the side of the II Party/Management. The arguments advanced by learned counsel on either side were heard.

5. The Point for my consideration is :—

“Whether the action of the management of NEPC Airlines in terminating the service of Captain N.S. Lohan, Pilot with effect from 18th October, 1997 is justified or not? If not justified, to what relief the workman is entitled?”

Point :—

The Petitioner Captain N.S. Lohan was appointed as Trainee Captain in NEPC Airlines, subject to the terms and conditions in an agreement he has entered into with the Respondent/Management NEPC Airlines, a division of NEPC Micon Ltd., a Public Limited Company. A xerox copy of the letter dated 18-10-93 sent by NEPC Micon Ltd. to the Petitioner informing him that he has been appointed as Trainee Captain is Ex. W1. Ex. W2 is the xerox copy of the agreement entered into between the Petitioner and the Respondent/Management on 10-11-1993. Ex. W3 is the xerox copy of the letter dated 13-12-1994 given to the Petitioner informing him about the restructure of his salary w.e.f. 1-1-1995. Ex. W4 is the xerox copy of the letter dated 19-12-1995 sent by the Director, NEPC Airlines to the Petitioner informing him about the increase in his salary from 1-1-1996. Ex. W5 is the xerox copy of the letter dated 5-5-1997 sent by the Director, NEPC Airlines to the Petitioner informing him about the lay off with immediate effect, untill further notice with a direction to the Petitioner to be in touch with the General Manager (Operations) for further information. Ex. W6 is the xerox copy of the letter dated 7-5-1997 sent by Manager Personnel of NEPC Airlines to the Petitioner informing him that is pending salary for the months of February, March, April, 1997 amounting to Rs. 3,00,000/- is adjusted against his unrecovered training cost as on date amounts to Rs. 4,50,000/- payable to the company by him as per the agreement he has signed. Ex. W7 is the xerox copy of the letter dated 1-6-1997 sent by the Director, NEPC Airlines to the Petitioner informing him about the restructuring plan fixed for his case for salary and allowance with effect from the date of withdrawal of lay off notice. Ex. W8 is the xerox copy of the letter dated 18-10-97 sent by Director, NEPC Airlines to be Petitioner informing him that his services are no longer required by the company and his services are terminated with immediate effect. The Petitioner has come

forward with this industrial dispute against the Respondent/Management alleging that the Respondent's action of termination of his services without assigning any reason or without paying any compensation is illegal and contra to law and pray for an order to be passed by this Tribunal by an Award that the lay off and termination of his services as illegal, violative of rules and law and consequently commuted dues and direct the Respondent/Management to pay him a total sum of Rs. 54,30,217/-.

6. The Respondent/Management has disputed this claim of the Petitioner stating that the Respondent/Management has spent huge sums for imparting specialised training in the Aircrafts owned by them and for obtaining special endorsement and licence for the Petitioner from the appropriate authorities and that the Petitioner had signed the agreement inter alia, agreeing that he would serve the Respondent/Management for a minimum period of three years from the date of agreement and in the event of default we would pay a sum of Rs. 7,50,000/- as liquidated damages and also settle the dispute by arbitration. It is further contended that due to reasons beyond the control of the Respondent/Management and operation of law, the Airlines was forced to be grounded and at that point of time, the Petitioner was informed about the same and the Petitioner himself knows that the grounding of the Airlines was beyond the control of the Respondent/Management. It is further contended that thereafter since grounding of Airlines, the Petitioner did not report for duty and he is gainfully employed with other Airlines, making use of the training imparted by the Respondent/Management and that in order to wriggle out his liability to pay the liquidated damages as borne out by the agreement as an afterthought and counter last to the arbitration, instituted the proceedings making false and fictitious claims. The Respondent/Management would further contend that the Petitioner was called upon to make payment of balance of training cost amounting to Rs. 4,50,000/- after deduction of Rs. 3,00,000/- from the salaries of February, March and April and they are disputing that they have agreed that the pending salaries would be paid to him shortly and the Petitioner is put to strict proof of the same and that as on date there is no amount due and liable to be paid to the Petitioner and on the contrary only the Petitioner was due amounts towards balance of training cost for breach of terms of agreement. It is further contended that as per the policy for medical reimbursement unless bills and relevant papers are submitted there is no question of reimbursement of any amount and fanciful amount claimed to be due under these heads are denied and the Petitioner is put to strict proof of the same and that the Petitioner has no leave at his credit and the leave encashment claim is disputed and that the amounts claimed are without any basis and the Petitioner is not entitled to receive the same. It is also the contention of the Respondent/Management that by a letter dated 18-10-1997 the service of the Petitioner was

terminated and the said letter was issued to the Petitioner, subsequent to the grounding of aircraft and the Petitioner was gainfully employed and to put the records straight and to comply with other requirements of law, the said letter was issued. It is also contended that the Petitioner has taken employment elsewhere and is gainfully employed during the relevant point of time i.e. when he abandoned his services with the Respondent/Management. It is further contended by the Respondent/Management that due to the grounding of Airlines and due to operation of law through various Govt. agencies taken by the Department of Civil Aviation, the Airlines operation was closed and services of the employees excepting those in the accounts department were dispensed with. Therefore, the Petitioner is not eligible to be reinstated in service nor entitled for back wages.

7. The documents relied upon by the Petitioner as Ex. W1 to W8 support the stand taken by the Respondent/Management. A perusal of the agreement Ex. W2 goes to show that at the huge expenses incurred by the Respondent/Management, the Petitioner was trained as a aircraft pilot and was able to obtain special endorsements and licence from the appropriate authorities due to the specialised training, he had with the help of the Respondent/Management. One among the conditions in the agreement under Ex. W2 that in order to secure the company against the expenses incurred on the training of the trainee and to ensure due compliance of the terms and conditions stipulated by the company and accepted by the trainee, it is agreed that the trainee shall be liable to pay liquidated damages to the sum of Rs. 7.5 lakhs to the company, as stipulated in the letter dated 18-10-1993 and the loss of the company in the event of the failure of the trainee to comply with the agreed terms and conditions referred to will be far in excess of Rs. 7.5 lakhs and that the trainee and the guarantor shall be jointly as well as severally liable to pay the liquidated damages, as agreed to and it shall always be open to the company to proceed to recover the same from either of the parties or both of them jointly or severally. It is further stated in that agreement that in the event of any dispute/difference arising between the company the trainee and the guarantor in relation to this agreement or any matter ancillary thereto, the matter shall be referred to sole arbitration of the Chairman of the company or the person nominated by him in this behalf and the venue of arbitration will be at Madras and that the decision of the arbitrator shall be final and binding on both the parties.

8. All these stands taken by the Respondent/Management against the claim made by the Petitioner have not been disputed as incorrect. On the other hand, the documents exhibited by the Petitioner on his side, support the contention of the Respondent/Management as correct. It is not pleaded or adduced by way of evidence that he has ever taken any steps to have this dispute referred to an Arbitrator earlier as one of the conditions in the agreement under Ex. W2. The specific averment of the Respondent/Management in their Counter Statement that after the

grounding of Airlines by the Respondent/Management due to operation of law taken by the Department of Civil Aviation, the Airlines operations was closed. The Petitioner did not report for duty since he is gainfully employed in other Airlines making use of the training imparted by the Respondent/Management. The Petitioner has not denied or disputed the same by filing any reply statement or let in any contra evidence oral or documentary to disprove the same. The learned counsel for the Respondent/Management would argue further that the Petitioner not report for duty since he is gainfully employed with other Airlines amounts to abandonment of the service of the Respondent/Management. Further, due to the grounding of Airlines by the Respondent/Management for the reasons beyond the control of the Respondent/Management, there is no scope for the Petitioner to continue in service for want of one such post. So admittedly, there is no post for the Petitioner to serve any further in the Respondent/Management as pilot in command in the aircrafts operated by the Respondent/Management. So automatically, his employment came to an end. Under such circumstances, the Petitioner cannot ask for reinstatement in service, when especially it is based on a contract entered into between the Petitioner and the Respondent/Management as a service contract. Further, when the Petitioner himself has abandoned his job by taking an employment elsewhere, he cannot also claim any retrenchment compensation. So the question of retrenchment by the company Respondent/Management would not arise. It is not the stand of the Petitioner that for claiming medical reimbursement, he submitted bills and relevant papers and the Respondent/Management only has refused to reimburse the said amount, he spent for medical expenses. When the Respondent/Management has taken a stand that the Petitioner is put to strict proof, he has not come forward to let in any oral or documentary evidence in support of his claim for medical reimbursement from the Respondent/Management. Like that, he has also not let any acceptable evidence to show that his right to leave encashment has been denied by the Respondent/Management and he has got leave to his credit for encashment. Under such circumstances, in the absence of required proof to prove the averments of the Claim Statement of the Petitioner for the claim he has made against the Respondent/Management, it cannot be said that the Petitioner is entitled for the relief he prayed for in claim petition. Nothing has been let in by way of acceptable evidence by the Petitioner that the lay off observed by the Respondent/Management is illegal and his termination is violative of rules and law and he is entitled for commutation of his alleged dues and for a direction to the Respondent/Management by this Tribunal to pay him the amount he is entitled to. Under such circumstances, it is held that the action of the management of NEPC Airlines in terminating the services of the Petitioner Captain N.S. Lohan, Pilot w.e.f. 18-10-1997 is justified. Hence, the Petitioner/Claimant is not entitled for any relief. Thus, the point is answered accordingly.

9. In the result, an Award is passed holding that the I Party/Captain N.S. Lohan is not entitled for any relief under this dispute against the Respondent/Management NEPC Airlines. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open Court on this day the 29th November 2002).

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :—

On either side : None

Documents Exhibited :—

For the I Party/Workman :—

Ex. No.	date	Description
W1	18-10-93	Xerox copy of the appointment order of the Petitioner issued by the Respondent/Management.
W2	10-11-93	Xerox copy of the agreement entered by the Petitioner with NEPC Airlines Ltd.
W3	13-12-94	Xerox copy of the letter from NEPC Airlines to Petitioner informing revision of salary from 1-1-95.
W4	19-12-95	Xerox copy of the letter from NEPC Airlines to Petitioner informing revision of salary from 1-1-96.
W5	05-05-97	Xerox copy of the letter from NEPC Airlines to Petitioner informing lay off with immediate effect.
W6	07-05-97	Xerox copy of the letter from NEPC Airlines to Petitioner informing adjustment of payable amount to company.
W7	01-06-97	Xerox copy of the letter from NEPC Airlines to Petitioner informing revision of salary from the date of withdrawal of lay off Notice.
W8	18-10-97	Xerox copy of the letter from NEPC Airlines to Petitioner informing the termination of his service.

For the II party/Management : Nil

नई दिल्ली, 15 जनवरी, 2003

का. आ. 508.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन.ई.पी.सी. एअर लाइंस के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 82/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-01-2003 को प्राप्त हुआ था।

[सं. एल-11012/57/98-आई. आर. (सी-1)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 15th January, 2003

S.O. 508.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 82/2001) of the Central Government Industrial Tribunal Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of NEPC Air Lines and their workman, which was received by the Central Government on 10-01-2003.

[No. L-11012/57/98-IR (C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI.

Friday, the 29th November, 2002

PRESENT: K. Karthikeyan, Presiding Officer

INDUSTRIAL DISPUTE NO. 82/2001

(Tamil Nadu State Industrial Tribunal I.D. No. 24/99)

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Captain A. Sripathi and management of NEPC Airlines.)

BETWEEN

Captain A. Sripathi : I Party/Workman.

AND

The Chairman, : II Party/Management.
NEPC Airlines

APPEARANCES:

For the Workman : M/s. P. S. Seetharaman & Advocate

For the Management : M/s. S. R. Rajagopal,
K. Vasu Venket,
S. R. Raghunathan,
Advocates.

The Govt of India, Ministry of Labour in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No. L-11012/57/98-IR (C-I) dated 22-01-1999.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, Chennai, where the same was taken on file as I.D. No. 24/99. When the matter was pending enquiry in that Tribunal, Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu State Industrial Tribunal to this Tribunal for adjudication. On receipt of records from that Tamil Nadu State Industrial Tribunal, this case has been taken on file as I.D. No. 82/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 29-01-2001 and to prosecute this case further. Accordingly, learned counsel on either side have appeared and prosecuted this case further.

Upon perusing the Claim Statement, Counter Statement, the documentary evidence let in on the side of the I Party/Workman alone, the other material papers on record, after hearing the arguments advanced by the learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

“Whether the action of the management of NEPC Airlines in terminating the service of Captain A. Sripathi, Pilot with effect from 24th May, 1997 is justified or not? If not justified, to what relief the workman is entitled?”

2. The averments in the Claim Statement filed by the I Party/Claimant Captain A. Sripathi (hereinafter refers to as Petitioner) are briefly as follows :—

The Petitioner was appointed as a Trainee Captain w.e.f. 27-03-95 by the II Party/Management NEPC Airlines by a letter dated 14-02-1995. The Petitioner was asked to sign an agreement dated 01-04-1995 with NEPC Airlines, a division of NEPC Micon Ltd., a Public Limited Company incorporation and registered under Companies Act, 1956. The terms and conditions as laid down in the appointment letter formed part of the agreement. The essence of agreement is stated on page 2 of the said agreement and that the company would bear the training cost and that the Petitioner should serve the company for five years to liquidate the ground and simulator training abroad and conversion flying training in India. The requisite a/c type endorsement and instrument rating from the Director General of Civil Aviation was obtained on 28-10-1995. After fulfilling the requirements mandatory route checks, the Petitioner obtained PIC rating on F 27-500 A/c on 7th May, 1996 from DGCA. With effect from that date the Petitioner's gross salary had been fixed at Rs. 2,04,000/-p.m. and the

net salary had been revised to Rs. 1,25,000/-p.m. after deduction of tax at source. Since April, 1996, the petitioner's salary had been delayed progressively every month and the payments were made with post-dated cheques. During September, 1996 on request from Senior Pilots of the company, one meeting was arranged with the Chairman Mr. Ravi Prakash Khemka. He assured that full compliment of nine account would be on line and salaries would be updated by the end of October, 1996. Instead of improvement, the situation deteriorated. Another meetings was held with the Director Mr. T.K. Khemka during January, 1997. He also promised that the financial situation would improve and all pending salaries would be updated by the end of February, 1997. This promise too did not hold any water. The Petitioner's salary for January, 1997 was paid on 20-3-97 with a post dated cheque dated 28-3-97. On 25-05-97, the Petitioner happened to be read a notice on the Airport movement control notice board by the Financial Controller that due to year end financial commitments it would be very difficult to honour the post dated cheques 27-3-97 and 28-3-97 issued to senior commanders and pilots and not to send the cheques for clearing. Thereafter, the Petitioner was asked to return the cheque to the Accounts department with a promise that the Petitioner would be paid Petitioner's January, 1997 salary within a week. Finally, the salary for January, 1997 was paid on 5th May, 1997 by a post dated cheque No. 509241 dated 12-5-97. Since then, the Petitioner had not received salary for the months of February, March, April and upto 4th May, 1997. During May, 1997, the Petitioner received a letter NEPCAL/OPS/97 dated 2-5-97 signed by the Director Mr. T.K. Khemka that effecting 5th May, 1997 he was laid off until further notice. The letter did not give any reason or duration or any terms and conditions for the lay off period. It is illegal, contra to law and unsustainable in law. Again the petitioner received another letter NEPCAL/PERS/97 Dated 7-5-1997 signed by Manager (Personnel) Mr. P.K. Biswas that pending salaries for the months of February, March and April, 1997 amounting to Rs. 3,00,000/- is being adjusted towards cost of his unrecoverable training cost on date amounting to Rs. 6,00,000/- payable to the company as per the agreement. The Petitioner contacted the General Manager operations to obtain further information on lay off letter. Since he had no answer, the petitioner had contacted the President Mr. Jayanareyan along with three other senior commanders. He said that the lay off was for two months and the part of the pending salaries would be paid shortly. When asked about the deductions of training cost against the unpaid wages, he replied that it was the decision of the company management and cannot be altered. The Petitioner also submitted his medical reimbursement claim for the year 1996-97 and encashment of leave for 1995 and 1996 which also had not been paid to him. Subsequently, the petitioner received a letter NEPCAL/PERS/97 dated 24-5-97 stating that the petitioner's service was no longer required by the company and as such

were terminated with immediate effect without assigning any reason or compensation which is illegal and contra to law. The said termination is against the provisions of labour enactments. Though the company had deducted income tax at source from the paid wages, the same had not been remitted to the Govt. and form 16 had not been issued for 1996-97 and hence I. T. return for 1996-97 could not be filed by him. Due to the financial crisis created by NEPC Airlines management by not paying his rightful monthly salary, the Petitioner was forced to default on instalment payments towards Petitioner's new flat which were due on or before February, 1997 (Rs. 3,86,756.08 x 2). This attracted 24% on the unpaid amount of Rs. 7,73,512.16 and also if unable to pay before 31-5-97, the builder had threatened to cancel the agreement involving heavy loss of money. Added to this some of the banks like HDFC, IND BANK refused to extend housing loan facility because the Petitioner was Respondent's employee stating that the Petitioner's repayment of loan was doubtful due to uncertainty of the company and this landed him in deeper crisis. During the period of Petitioner's service with NEPC Airlines, Petitioner was medically fit and kept Petitioner's licence and instrument rating current and fulfilled all the contractual requirements as per the appointment letter and the said agreement. Fully trusting the management at each level and with the promises of financial revival by the Respondent/Management, the Petitioner extended fullest cooperation with the company by carrying out Petitioner's duty faithfully and sincerely despite non-receipt of salaries continuously for several months. Pending earned salaries and other dues to be paid to him by Respondent is given in detail. The Respondent/Management may be instructed to pay all the Petitioner's rightful dues. Therefore, it is prayed that this Hon'ble Tribunal may be pleased to pass an award that lay-off and termination of the Petitioner as illegal, violative of rules and law and consequently commute the dues and direct the Respondent to pay the claims namely salary for the months January, February, March, April, 1997 to Rs. 8,16,000/- less advance taken by cash and cheque Rs. 1,25,000/- and salary for four days in May, 1997 Rs. 26,322/- medical reimbursement claim for 1996-97 Rs. 40,800/- encashment of leave for 1995-96 and Rs. 28,820/- 50% of salary as wages during lay off period from 5th May to 29th May, 1997 Rs. 1,70,000/- salary compensation for termination without notice Rs. 6,12,000/- gratuity for total service Rs. 2,04,000/- and bonus for 1995-96 and 1996-97 Rs. 40,000/- totalling Rs. 18,08,742/-.

3. The averments in the Counter Statement filed by the II Party/Management the Chairman, NEPC Airlines (hereinafter refers to as Respondent) are briefly as follows:—

The Respondent denies all the allegations and averments contained in the Claim Statement except that are

specifically admitted and the Petitioner is put to strict proof of the other allegations. The Claim Statement is against the Chairman, NEPC Airlines is not maintainable as NEPC Airlines is not a legal entity and only a division of NEPC India Ltd. There is no such designation as Chairman, NEPC Airlines Ltd. nor the said Chairman, NEPC Airlines Ltd. is the employer of the Petitioner/I Party. On this count itself, the Claim Statement is liable to be dismissed in limine. The Airlines is not a company owned by the Government of India, therefore, the appropriate Govt. in this case is not the Central Govt. Hence, the reference of the instant industrial dispute to this Tribunal is without jurisdiction and hence, the same is liable to be rejected. In the normal course of business, since the persons have to be trained, in aircrafts flown by them and special endorsements and licence had to be obtained from appropriate authorities, the Petitioner was imparted specialised training and huge sums for the same were spent. The Petitioner had signed the agreement inter-alia agreeing that the Petitioner would serve the Respondent for a minimum period of three years from the date of agreement and in the event of default, they would pay a sum of Rs. 7,50,000/- as liquidated damages. It is also inter-alia provided for settlement of dispute by arbitration. In most cases, arbitration proceedings have been initiated and are pending. The said agreement was entered into between NEPC Airlines, a division of NEPC India Ltd. and the Petitioner as well as other persons who represented to be the guarantor. It is denied that the gross salary of the Petitioner was Rs. 2,04,000/- per month and the net salary revised to Rs. 1,25,000/- after deduction of tax at source. The Petitioner is put to strict proof of this allegation. Due to reasons beyond the control and operation of law, the airlines was forced to be grounded and at that point of time, the Petitioner was informed about the same. It is well within the knowledge of the Petitioner that the grounding of Airlines was beyond the control of the Respondent. At this juncture, it is relevant to point out that thereafter since grounding of Airlines, the Petitioner did not report for duty and he is gainfully employed with other Airlines making use of the training imparted by the Respondent. It is also relevant to point out that in order to wriggle out his liability to pay the liquidated damages as borne out by the agreement, as an afterthought and counter blast to the arbitration instituted these proceedings, making false and fictitious claims. It is admitted that as per letter dated 7-5-97, the Petitioner was called upon to make payment of the balance of training cost amounting to Rs. 4,50,000/- after deduction of Rs. 3,00,000/- from the salary of February, March and April. It is denied and disputed that it was agreed that pending salaries would be paid shortly. The Petitioner is put to strict proof of the same. As on that date there was no amount due and liable to be paid to the Petitioner and on the contrary, only the Petitioner was due amounts towards balance of training cost for breach of terms of agreement. As per the policy for medical reimbursement, unless bills and relevant papers are

submitted, there is no question of reimbursement of any amount and fanciful amount claimed to be due under these heads are denied and the Petitioner is put to strict proof. The leave encashment claimed is disputed. He has no leave at his credit. This itself would go to show the ingenuity in the claim of the Petitioner. It is denied that amounts are due and liable to be paid to the Petitioner. The amounts claimed are without any basis. They are beyond the scope of the dispute and reference. Hence, they do not deserve to be adjudication upon. In any event, the amounts claimed by the Petitioner is disputed and he is not entitled to receive the same. By a letter dated 02-04-97 the service of the Petitioner was terminated. The said letter was issued to the Petitioner subsequent to the grounding of aircraft and the Petitioner was gainfully employed and to put the records straight and to comply with the other requirements of law, the said letter was issued. The allegation that the termination was made without assigning any reason or payment of any compensation and that the same is illegal and contrary to law is denied. The Petitioner has taken employment elsewhere and is gainfully employed during the relevant point of time i.e. when the Petitioner abandoned his services with the Respondent. The income tax deducted at source was not remitted to Govt. and form 16 not issued is denied as false. The said allegation is unwarranted and is beyond the scope and ambit of the dispute. The Petitioner has made false allegations knowing fully well the same to be false and are liable to be proceeded against for damages and perjury. The allegation that the Petitioner was forced to default in instalment payments is in no way concerned with the employer and since the Petitioner had abandoned the service, there is no question of any amount to be paid to the Petitioner by the employer. In any event, his default in instalment was only due to his conduct and the employer or this Respondent is not in any way liable for the same. At no point of time, had this Respondent or employer deprived any persons of their rightful monies. The statement of salary and calculation given in Claim Statement are denied. The Petitioner is put to strict proof of the same. The Petitioner by no stretch of imagination or under law could be considered to be a workman as defined under Industrial Disputes Act. The Petitioner was discharging managerial/supervisory functions managing an aircraft. The Petitioner is not entitled to make any Claim Statement before this Tribunal and the Claim Statement made is without jurisdiction and authority. Without prejudice, it is submitted that there is no industrial dispute which has been raised and the reference made under Section 10(i)(d) of the Industrial Disputes Act, 1947 to this Tribunal is bad. In the instant case, since there is no employer-employee relationship, there could be no industrial dispute more so when the pilot discharging managerial/supervisory functions and who is not a workman cannot raise or maintain any dispute. Due to the grounding of Airlines and due to operation of law through various Govt. agencies take the Department of Civil

Aviation, the Airlines operation was closed and the services of the employees except those in the accounts department were dispensed with. The Petitioner, therefore, is not eligible to be reinstated nor entitled for back wages. Therefore, it is prayed that this Hon'ble Tribunal may be pleased to dismiss the Claim Statement.

4. When the matter was taken up for enquiry, no one has been examined as a witness on either side. On the side of the Petitioner 6 documents have been marked by consent as Ex. W1 to W6. No document has been marked on the side of the II Party/Management. The arguments advanced by learned counsel on either side were heard.

5. The Point for my consideration is—

“Whether the action of the management of NEPC Airlines in terminating the service of Captain A. Sripathi, Pilot with effect from 24th May, 1997 is justified or not? If not justified, to what relief the workman is entitled?”

Point:—

The Petitioner Captain A. Sripathi was appointed as Trainee Captain in NEPC Airlines, subject to the terms and conditions in an agreement he has entered into with the Respondent/Management NEPC Airlines, a division of NEPC Micon Ltd., a Public Limited Company. A xerox copy of the letter dated 14.02.95 sent by NEPC Micon Ltd. to the Petitioner informing him that he has been appointed as Trainee Captain is Ex. W1. Ex. W2 is the xerox copy of the agreement entered into between the Petitioner and the Respondent/Management on 1-4-1995. Ex. W3 is the xerox copy of the circular from the Financial Controller to the Petitioner dated 25-3-97 informing him not to send the cheques for clearance. Ex. W4 is the xerox copy of the letter dated 2-5-97 given to the Petitioner informing him about the lay off from 5-5-97. Ex. W5 is the xerox copy of the letter dated 7-5-1997 sent by the Manager Personnel of NEPC Airlines to the Petitioner informing him about adjustment of salaries for the months of February, March, April, 1997 amounting to Rs. 3,00,000/- against his unrecovered training cost as on date amounts to Rs. 6,00,000/- payable to the company by him as per the agreement he has signed. Ex. W6 is the xerox copy of the letter dated 24-5-1997 sent by the Manager (Personnel), NEPC Airlines to the Petitioner informing him that his services are no longer required by the company and his services are terminated with immediate effect. The Petitioner has come forward with this industrial dispute against the Respondent/Management alleging that the Respondent's action of termination of his services without assigning any reason or without paying any compensation is illegal and contra to law and pray for an order to be passed by this Tribunal by an Award that the lay off and termination of his services as illegal, violative of rules and law and consequently commuted dues and direct the Respondent/Management to pay him a total sum of Rs. 18,08,742/-.

6. The Respondent/Management has disputed this claim of the Petitioner stating that the Respondent/Management has spent huge sums for imparting specialised training in the aircrafts owned by them and for obtaining special endorsement and licence for the Petitioner from the appropriate authorities and that the Petitioner had signed the agreement *inter alia*, agreeing that he would serve the Respondent/Management for a minimum period of five years from the date of agreement and in the event of default he would pay a sum of Rs. 7,50,000/- as liquidated damages and also settle the dispute by arbitration. It is further contended that due to reasons beyond the control of the Respondent/Management and operation of law, the Airlines was forced to be grounded and at that point of time, the Petitioner was informed about the same and the Petitioner himself knows that the grounding of the Airlines was beyond the control of the Respondent/Management. It is further contended that thereafter since grounding of Airlines, the Petitioner did not report for duty and he is gainfully employed with other Airlines, making use of the training imparted by the Respondent/Management and that in order to wriggle out his liability to pay the liquidated damages as borne out by the agreement as an afterthought and counter blast to the arbitration, instituted the proceedings making false and fictitious claims. The Respondent/Management would further contend that the Petitioner was called upon to make payment of balance of training cost amounting to Rs. 6,00,000/- after adjustment of Rs. 3,00,000/- from the salaries of February, March and April and they are disputing that they have agreed that the pending salaries would be paid to him shortly and the Petitioner is put to strict proof of the same and that as on date there is no amount due and liable to be paid to the Petitioner and on the contrary only the Petitioner was due amounts towards balance of training cost for breach of terms of agreement. It is further contended that as per the policy for medical reimbursement unless bills and relevant papers are submitted there is no question of reimbursement of any amount and fanciful amount claimed to be due under these heads are denied and the Petitioner is put to strict proof of the same and that the Petitioner has no leave at his credit and the leave encashment claim is disputed and that the amounts claimed are without any basis and the Petitioner is not entitled to receive the same. It is also the contention of the Respondent/Management that by a letter dated 24-5-97 the service of the Petitioner was terminated and the said letter was issued to the Petitioner, subsequent to the grounding of aircraft and the Petitioner was gainfully employed and to put the records straight and to comply with other requirements of law, the said letter was issued. It is also contended that the Petitioner has taken employment elsewhere and is gainfully employed during the relevant point of time i.e. when he abandoned his services with the Respondent/Management. It is further contended by the Respondent/Management that due to the grounding of Airlines and due to operation of law through various Govt.

agencies take the Department of Civil Aviation, the Airlines operation was closed and services of the employees excepting those in the accounts department were dispensed with. Therefore, the Petitioner is not eligible to be reinstated in service nor entitled for back wages.

7. The documents relied upon by the Petitioner as Ex. W1 to W6 support the stand taken by the Respondent/Management. A perusal of the agreement Ex. W2 goes to show that at the huge expenses incurred by the Respondent/Management, the Petitioner was trained as a aircraft pilot and was able to obtain special endorsements and licence from the appropriate authorities due to the specialised training, he had with the help of the Respondent/Management. One among the conditions in the agreement under Ex.W2 that in order to secure the company against the expenses incurred on the training of the trainee and to ensure due compliance of the terms and conditions stipulated by the company and accepted by the trainee, it is agreed that the trainee shall be liable to pay liquidated damages to the sum of Rs. 7.5 lakhs to the company, as stipulated in the agreement dated 01.04.1995 and the loss of the company in the event of the failure of the trainee to comply with the agreed terms and conditions referred to will be far in excess of Rs. 7.5 lakhs and that the trainee and the guarantor shall be jointly as well as severally liable to pay the liquidated damages, as agreed to and it shall always be open to the company to proceed to recover the same from either of the parties or both of them jointly or severally. It is further stated in that agreement that in the event of any dispute/difference arising between the company the trainee and the guarantor in relation to this agreement or any matter ancillary thereto, the matter shall be referred to sole arbitration of the Chairman of the company or the person nominated by him in this behalf and the venue of arbitration will be at Madras and that the decision of the arbitrator shall be final and binding on both the parties.

8. All these stands taken by the Respondent/Management against the claim made by the Petitioner have not been disputed as incorrect. On the other hand, the documents exhibited by the Petitioner on his side, support the contention of the Respondent/Management as correct. It is not pleaded or adduced by way of evidence that he has ever taken any steps to have this dispute referred to an Arbitrator earlier as one of the conditions in the agreement under Ex.W2. The specific averment of the Respondent/Management in their Counter Statement that after the grounding of Airlines by the Respondent/Management due to operation of law taken by the Department of Civil Aviation, the Airlines operations was closed. The Petitioner did not report for duty since he is gainfully employed, in other Airlines making use of the training imparted by the Respondent/Management. The Petitioner has not denied or disputed the same by filing any reply statement or let in any contra evidence oral or documentary to disprove the same. The learned counsel for the Respondent/

Management would argue further that the Petitioner not report for duty since he is gainfully employed with other Airlines amounts to abandonment of the service of the Respondent/Management. Further, due to the grounding of Airlines by the Respondent/Management for the reasons beyond the control of the Respondent/Management, there is no scope for the Petitioner to continue in service for want of one such post. So admittedly, there is no post for the Petitioner to serve any further in the Respondent/Management as pilot in command in the aircrafts operated by the Respondent/Management. So automatically, his employment came to an end. Under such circumstances, the Petitioner cannot ask for reinstatement in service, when especially it is based on a contract entered into between the Petitioner and the Respondent/Management as a service contract. Further, when the Petitioner himself has abandoned his job by taking an employment elsewhere, he cannot also claim any retrenchment compensation. So the question of retrenchment by the company Respondent/Management would not arise. It is not the stand of the Petitioner that for claiming medical reimbursement, he submitted bills and relevant papers and the Respondent/Management only has refused to reimburse the said amount, he spent for medical expenses. When the Respondent/Management has taken a stand that the Petitioner is put to strict proof, he has not come forward to let in any oral or documentary evidence in support of his claim for medical reimbursement from the Respondent/Management. Like that, he has also not let in any acceptable evidence to show that his right to leave encashment has been denied by the Respondent/Management and he has got leave to his credit for encashment. Under such circumstances, in the absence of required proof to prove the averments of the Claim Statement of the Petitioner for the claim he has made against the Respondent/Management, it cannot be said that the Petitioner is entitled for the relief he prayed for in the claim petition. Nothing has been let in by way of acceptable evidence by the Petitioner that the lay off observed by the Respondent/Management is illegal and his termination is violative of rules and law and he is entitled for commutation of his alleged dues and for a direction to the Respondent/Management by this Tribunal to pay him the amount he is entitled to. Under such circumstances, it is held that the action of the management of NEPC Airlines in terminating the services of the Petitioner Captain A. Sripathi, Pilot w.e.f. 24-5-1997 is justified. Hence the Petitioner/Claimant is not entitled for any relief. Thus, the point is answered accordingly.

9. In the result, an Award is passed holding that the I Party/Captain A. Sripathi is not entitled for any relief under this dispute against the Respondent/Management NEPC Airlines. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 29th November, 2002.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :

On either side : : None

Documents Exhibited:

For the I Party/Workman:

Ex. No.	Date	Description
W1	14.02.95	Xerox copy of the appointment order of the Petitioner issued By the Respondent/Management.
W2	01.04.95	Xerox copy of the agreement entered by the Petitioner with NEPC Airlines Ltd.
W3	25.03.97	Xerox copy of the circular from the financial controller to the Pilots.
W4	02.05.97	Xerox copy of the letter from NEPC Airlines to Petitioner Informing lay off with effect from 5.5.97.
W5	07.05.97	Xerox copy of the letter from NEPC Airlines to Petitioner Informing adjustment of payable amount to company.
W6	24.05.97	Xerox copy of the letter from NEPC Airlines to Petitioner Informing the termination of his service.

For the II Party/Management: Nil

नई दिल्ली, 14 जनवरी, 2003

का.आ. 509.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा 1 फरवरी, 2003 की उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 अध्याय-5 और 6 [धारा-76 की उप धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध केरल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

“जिला एरणाकुलम के कोचीन तथा आलुवा तालुक में एडवनक्काड और तुरावूर; जिला इडुक्की के तालुक तोडुपुष्पा में करिनकुन्नम, तथा जिला तिरुवनन्तपुरम के नेयाटिनकरा तालुक में तिरुपुरम और कोल्लायिल के अधीन आने वाले क्षेत्र”।

[सं एस-38013/02/03-एस.एस.-I]

संयुक्ता राय, अवर सचिव

New Delhi, the 14th January, 2003

S.O. 509.—In exercise of the powers conferred by Sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st February, 2003 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except Sub-section (i) of Section 76 and Sections 77, 78, 79 and 81] which have already been brought into force] of the said Act shall come into force in the following areas in the State of Kerala namely:

Areas comprising the Revenue Villages of "Edavanakkad in Cochin Taluk & Thuravoor in Aluva Taluk of Ernakulam District; Karinkunnam in Thodupuzha Taluk of Idukki District and Thirupuram & Koliayil in Neyyatinkara Taluk of Trivandrum District."

[No.S-38013/02/2003-SS.I]

SANJUKTA RAY, Under Secy.

नई दिल्ली, 14 जनवरी, 2003

का०आ० 510.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 फरवरी, 2003 की उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4, अध्याय-5 और 6 [धारा-76 की उप धारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध तमिलनाडु राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

"जिला विरूधुनगर के तालुक विरूधुनगर में राजस्व ग्राम आमतूर, मेलामतूर, करीसेरी और अणिकुट्टम के अन्तर्गत आने वाले क्षेत्र"।

[सं० एस-38013/3/2003-एस० एस०-1]

संयुक्ता राय, अवर सचिव

New Delhi, the 14th January, 2003

S.O. 510.—In exercise of the powers conferred by Sub-section (3) of Section 1 of the Employee's State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st February, 2003 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except Sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Tamil Nadu namely:

"Areas comprising the Revenue Villages of Amathur, Melamathur, Kariseri, Anaikuttam in Virudhunagar Taluk of Virudhunagar District."

[No. S-38013/3/2003-S.S.-I]

SANJUKTA RAY, Under Secy.

नई दिल्ली, 14 जनवरी, 2003

का०आ० 511.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 फरवरी, 2003 की उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4, अध्याय-5 और 6 [धारा-76 की उप धारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध केरल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

"जिला तृशूर के तल्लपिल्ली तालुक में पैरिंगनदूर के अधीन आने वाले क्षेत्र"।

[सं० एस-38013/4/2003-एस० एस०-1]

संयुक्ता राय, अवर सचिव

New Delhi, the 14th January, 2003

S.O. 511.—In exercise of the powers conferred by Sub-section (3) of Section 1 of the Employee's State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st February, 2003 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except Sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Kerala namely:

"Areas comprising the Revenue Village of Peringandoor in Thalappily Taluk of Trissur District."

[No. S-38013/04/2003-S.S.-I]

SANJUKTA RAY, Under Secy.

नई दिल्ली, 14 जनवरी, 2003

का०आ० 512.—केन्द्रीय सरकार संतुष्ट हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का०आ० 2335 दिनांक 5-7-2002 द्वारा ताम्बा खनन उद्योग जो कि औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 13 में शामिल हैं, को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 25-7-2002 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त उद्योग को

उक्त अधिनियम के प्रयोजनों के लिए 25-1-2003 से छः मास की कालावधि के लिए लोक उपयोगी-सेवा घोषित करती है।

[सं. एस.-11017/11/97-आई. आर. (पी. एल.)]

श्रीमती बी. आर. विज्ञ, अवर सचिव

New Delhi, the 14th January, 2003

S.O. 512.—Whereas the Central Government having been satisfied that the public interest so required that in pursuance of the provisions of sub-clause (vi) of the clause (n) of section 2 of the Industrial Dispute Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S.O. No. 2335 dated 5-7-2002 the services in the Copper Mining Industry which is covered by item 13 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947) to be a public utility service for the purpose of the said Act, for a period of six months from the 25th July, 2002.

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months.

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a period of six months from the 25th January, 2003.

[No. S-11017/11/97-IR(PL)]

Smt. B. R. VIJ, Under Secy.

नई दिल्ली, 20 जनवरी, 2003

का. आ. 513.—केन्द्रीय सरकार संतुष्ट है कि लोकहित में ऐसा अपेक्षित है कि प्रतिभूति मुद्रणालय, हैदराबाद में सेवाओं को जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 12 के अन्तर्गत निर्दिष्ट किया गया है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवाएं घोषित किया जाना चाहिए।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (6) के द्वारा प्रदत्त शक्तियों का प्रयोग करते केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[सं. एस.-11017/8/97-आई. आर. (पी. एल.)]

श्रीमती बी. आर. विज्ञ, अवर सचिव

New Delhi, the 20th January, 2003

S.O. 513.—Whereas the Central Government is satisfied that the public interest required that the services in the Security Printing Press, Hyderabad which is

covered by item 12 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a public utility service for the purposes of the said Act.

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares with immediate effect the said industry to be a public utility service for the purposes of the said Act for a period of six months.

[No. S-11017/8/97-IR(PL)]

Smt. B. R. VIJ, Under Secy.

नई दिल्ली, 22 जनवरी, 2003

का. आ. 514.—केन्द्रीय सरकार संतुष्ट हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना सं. का. आ. 2667 दिनांक 5-8-2002 द्वारा भारत सरकार टकसाल, कोलकाता, मुम्बई, नोएडा, चेरलापल्ली (रंगारेड्डी), एवं हैदराबाद, जो कि औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 11 में शामिल है, को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 5-8-2002 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 5-2-2003 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[सं. एस.-11017/02/2002-आई. आर. (पी. एल.)]

श्रीमती बी. आर. विज्ञ, अवर सचिव

New Delhi, the 22th January, 2003

S.O. 514.—Whereas the Central Government has been satisfied that the public interest so required that in pursuance of the provisions of Sub-clause (vi) of the clause (n) of section 2 of the Industrial Dispute Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S.O. No. 2667 dated 5-8-2002 the services in the India Government Mints, Kolkata, Mumbai, Noida, Cherlapally (Ranga Reddy) & Hyderabad which is covered by item 11 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), to be a public utility service for the purpose of the said Act, for a period of six months from the 5th August, 2002.

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months.

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a period of six months from 5-2-2003.

[No. S-11017/02/2002-IR(PL)]

Smt. B. R. VIJ, Under Secy.

नई दिल्ली, 24 जनवरी, 2003

का. आ. 515.—केन्द्रीय सरकार लौह अयस्क खान, मैंगनीज अयस्क खान और क्रोम-अयस्क खान श्रम कल्याण निधि अधिनियम, 1976 (1976 का 61) की धारा 2 की उपधारा (1) के खंड छ: के उपखंड (ii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii) तारीख 8 जून, 2002 में प्रकाशित इस मंत्रालय की अधिसूचना सं. का.आ. 1928 तारीख 29 मई, 2002 के अनुक्रम में नीचे दी गई अनुसूची में विनिर्दिष्ट कारखानों को उक्त अधिनियम के प्रयोजनों के लिए धातुकर्म कारखानों के रूप में घोषित करती है, अर्थात् :—

1. अंजनी पोर्टलैंड, सीमेंट लिमिटेड,
चिंतालापालेम, मेलाचेरुवु (मंडल),
नालगोंडा जिला (आंध्र प्रदेश) - 508246
2. कोरोमंडल सीमेंट लिमिटेड,
रामपुरम-508248 नालगोंडा जिला
(आंध्र प्रदेश)
3. ग्रे गोल्ड सीमेंट लिमिटेड,
मातमपल्ली-508225
नालगोंडा जिला (आंध्र प्रदेश)
4. लार्सन एंड टोब्रो सीमेंट वर्क्स,
भोगासमुद्रम-515415,
अनंतापुर जिला (आंध्रप्रदेश)
5. प्रियादर्शिनी सीमेंट लिमिटेड, बोनचेरुवुपल्ली-518220,
पिप्पल्ली (मंडल), कुर्नूल जिला (आंध्रप्रदेश)
6. पी. आर. सीमेंट लिमिटेड,
वेपालामाधवराम-508246, मेलाचुरुवु (मंडल),
नालगोंडा जिला (आंध्र प्रदेश)
7. श्री चक्रा सीमेंट लिमिटेड,
करामपुड़ी-522614,
गुंटूर जिला (आंध्र प्रदेश)
8. विश्वम सीमेंट लिमिटेड,
मेलाचुरुवु-508246,
नालगोंडा जिला (आंध्र प्रदेश)

9. दि इंडिया सीमेंट लिमिटेड,
शंकर नगर-627357,
तिरुनेलवली जिला (तमिलनाडु)
10. चेतनंद सीमेंट कार्पोरेशन लिमिटेड,
करिक्कल-624703,
डिंडिगुल जिला (तमिलनाडु)
11. मद्रास सीमेंट लिमिटेड,
अलाधियूर वर्क्स, सीमेंट नगर-621730,
पेरम्बलुर जिला (तमिलनाडु)
12. दि इंडिया सीमेंट लिमिटेड,
डालावोई वर्क्स,
सीमेंट नगर-621730,
पेरम्बलुर जिला (तमिलनाडु)
13. तमिलनाडु सीमेंट कार्पोरेशन लिमिटेड,
अलंगुलम वर्क्स-626127,
वाया, राजापालायम, विरुधुनगर जिला (तमिलनाडु)

[फा.सं. एस-23017/1/2001-डब्ल्यू II]

देवेन्द्र कुमार सिंह, कल्याण आयुक्त (मुख्यालय)

New Delhi, the 24th January, 2003

S.O. 515.—In exercise of the powers conferred by Sub-clause (ii) of clause (g) of section 2 of the Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976 (61 of 1976) and in continuation of this Ministry's Notification Number S. O. 1928 dated the 29th May, 2002, published in part II, section 3, sub-section (ii) of the Gazette of India, dated the 8th June, 2002 the Central Government hereby declares the factories specified in the Schedule below to be metallurgical factories for the purposes of the said Act, namely :—

SCHEDULE

1. Anjani Portland Cement Limited,
Chintalapalem, Mellacheruvu (Mandal),
Nalgonda District
(Andhra Pradesh) - 508246
2. Coromandel Cements Limited,
Ramapuram-508248
Nalgonda District (Andhra Pradesh)
3. Grey Gold Cements Limited,
Mattampally-508225,
Nalgonda District (Andhra Pradesh)
4. Larsen and Toubro Cements Works,
Bhogasamudram-515415,
Ananthapur District (Andhra Pradesh)

- | | |
|---|--|
| 5. Priyadarshini Cements Limited,
Boincheruvupalli-518220,
Peapully (Mandal), Kurnool District (Andhra Pradesh) | 10. Chettinad Cement Corporation Limited,
Karikkali-624703,
Dindigul District (Tamil Nadu) |
| 6. P. R. Cements Limited,
Vepalamadhavaram-508246, Mellacheruvu
(Mandal),
Nalgonda District (Andhra Pradesh) | 11. Madras Cements Limited,
Alathiyur Works, Cementnagar-621730,
Permbalur District (Tamil Nadu) |
| 7. Sri Chakra Cements Limited,
Karampudi-522614,
Guntur District (Andhra Pradesh) | 12. The India Cements Limited,
Dalavoi Works,
Cementnagar-621730,
Permbalur District (Tamil Nadu) |
| 8. Viswam Cements Limited,
Mellacheruvu-508246,
Nalgonda District (Andhra Pradesh) | 13. Tamilnadu Cements Corporation Limited,
Alangulam Works-626127,
Via, Rajapalayam, Virudhunagar District
(Tamil Nadu) |
| 9. The India Cements Limited,
Sankarnagar-627357,
Tirunelveli District (Tamil Nadu) | |

[F.No.S-23017/I/2001-W.II]

DEVENDRA KUMAR SINGH, Welfare Commissioner
(Headquarters)